

1 IN THE COUNTY OF RUSSELL

2 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY  
3 VIRGINIA GAS AND OIL BOARD  
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6  
7

8 March 13, 2012

9  
10 APPEARANCES:

11 **BOARD MEMBERS:**

12 BILL HARRIS - PUBLIC MEMBER  
13 BRUCE PRATHER - GAS AND OIL REPRESENTATIVE  
14 DONNIE RATLIFF - COAL REPRESENTATIVE

15 **CHAIRMAN:**

16 BUTCH LAMBERT - CHAIRMAN OF THE VIRGINIA GAS & OIL BOARD  
17  
18 RICK COOPER - DIRECTOR OF THE DIVISION OF GAS & OIL AND  
19 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD  
20 DIANE DAVIS AND JIM LOVETT - STAFF MEMBERS OF THE DGO  
21 SHARON PIGEON - SR. ASSISTANT ATTORNEY GENERAL

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1           BUTCH LAMBERT: Gentlemen, it's now 9:00 o'clock.  
2   It's time to begin our proceedings this morning. I would  
3   ask if you have cell phones or other personal communication  
4   devices, please put those on vibrate or turn them off. If  
5   you must take a call, please do so out in the hall. We'll  
6   begin this morning by asking the Board to please introduce  
7   themselves and I'll begin with Ms. Pigeon.

8           SHARON PIGEON: I'm Sharon Pigeon with the office  
9   of the Attorney General.

10          BUTCH LAMBERT: And I'm Butch Lambert with the  
11   Department of Mines, Minerals and Energy.

12          DONNIE RATLIFF: Donnie Ratliff with Alpha  
13   representing coal.

14          BILL HARRIS: I'm Bill Harris, a public member from  
15   Wise County.

16          BRUCE PRATHER: I'm Bruce Prather. I represent the  
17   oil and gas industry.

18          BUTCH LAMBERT: We didn't have anyone to sign up for  
19   public comments. But I'll open the floor. Are there any  
20   that wish to speak this morning from the public?

21                 (No audible response.)

22          BUTCH LAMBERT: Hearing none, we'll proceed on to  
23   the docket item number two. At this time, the Board will  
24   hear a petition filed by Scott Sexton, Counsel for Big Vein

25

1 Companies appealing the decision rendered by the Division  
2 of Gas and Oil Director for informal fact-finding conference  
3 24014, Unit D20SH, Application Number 18912. This will be  
4 docket number VGOB-12-0313-3037. All parties wishing to  
5 testify, please come forward.

6 SCOTT SEXTON: Mr. Chairman, I do not believe there  
7 will be any testimony today. It's probably just argument.  
8 It seems to be a legal issue.

9 BUTCH LAMBERT: Okay.

10 SCOTT SEXTON: I am Scott Sexton for the record. I  
11 have a handout for you all because we're going to be focusing  
12 on one Code Section. If I can approach, I'll just pass this  
13 down.

14 BUTCH LAMBERT: Sure. Absolutely.

15 SCOTT SEXTON: Just take one and please pass them  
16 down.

17 BUTCH LAMBERT: I'd ask the parties to please  
18 identify yourselves for the record.

19 SCOTT SEXTON: Scott Sexton, Counsel for the Big  
20 Vein Companies.

21 CHARLIE HART: Charlie Hart, General Partner for  
22 the Big Vein Companies.

23 MARK SWARTZ: Mark Swartz for CNX.

24 BUTCH LAMBERT: Okay, Mr. Sexton, you may begin.

25

1           SCOTT SEXTON: All right. Does everyone have a  
2 copy now of 45.1-361.12?

3           (No audible response.)

4           SCOTT SEXTON: This Code provision is what has been  
5 commonly referred to every since I've been involved with the  
6 Gas Act as the 2500 foot rule. It has been used and referred  
7 to frequently as the coal industry's trump card. It allows  
8 a coal owner, not an operator...that's an important  
9 distinction because if you read the opinion in this matter  
10 from the interim director you will see that a lot of  
11 attention is focused on things which are really not at issue.  
12 I think Mr. Cooper was trying very hard to cover all of the  
13 basis and just give a full explanation. But a lot of that  
14 stuff has absolutely nothing to do with the application of  
15 this statute. For example, you will see that Mr. Cooper's  
16 opinion deals with things like, are there active mine plans?  
17 Are there, you know, pillars and that sort of thing? This  
18 coal that we were talking about that our...that my clients  
19 own in this area is virgin coal. There is no...there is no  
20 mine works in it. As a coal owner, which we are, you need  
21 not have...in fact, coal owners rarely, if ever, have mine  
22 plans. So, what we do is we lease our coal to operators such  
23 as Mr. Swartz's sister company, Consol or Island Creek,  
24 CNX's sister company, and then they gather up the same

25

1 leasehold interest from other operators...other owners.  
2 When a sufficient economic reserve is created and they  
3 otherwise choose to do so, they then will mine that coal.  
4 So, that's how coal gets processed. Mr. Ratliff is very  
5 familiar with that. So, a small tract of coal without being  
6 combined with other tracts nearby is simply...generally  
7 worseless particularly in the Pocahontas 3 seam. It has to  
8 be combined with others. So, we are the owner of that coal.  
9 We own a great deal of coal in Buchanan County. But this  
10 particular portion of coal that we're talking about in this  
11 expanded unit is not...is not very big. We do one day very  
12 much hope to have that coal mined. It's the valuable  
13 Pocahontas 3 seam. We certainly anticipate that the value  
14 of that coal is going to go...increase in value overtime.  
15 So, it is out hope that that coal will one day be mined. Now,  
16 as the coal operators know when you place...when you place  
17 wellbores down into coal seams that is another obstacle.  
18 It's just another obstacle to development. When the Gas Act  
19 was being enacted, and for those of us who were around back  
20 then and then shortly after then, the big focus was on coal  
21 safety and certainly the major (inaudible) getting  
22 legislation developed was in the coal industry. The coal  
23 industry had to have certain safeguards. There were all  
24 concerns about safety and anyway protecting the supremacy

1 of coal in terms of the development of the natural resource.  
2 I say that as a way of explanation because the General  
3 Assembly did what it did. It enacted 45.1-361.12. When we  
4 went to the informal fact-finding conference in this  
5 building to talk about this well permit this was the issue  
6 that was discussed over 95% of the time in there. It's the  
7 issue that we raised and it's the issue that Mr. Swartz on  
8 behalf of his client argued against. So, this...this  
9 statute in front of you is what the hearing was about. A  
10 few red herons at that hearing, I have done research to try  
11 to find in the transcripts whether there had been an actual  
12 pooling order at the time. Our client's office receive a  
13 number of pooling order applications and other official mail  
14 at his office in Tazewell. We could not find any notice of  
15 it in our records. As an aside on that, the assistant or  
16 the secretary who maintains that, I believe, has been  
17 working at our office since she was 17 and she is now about  
18 87. So, it is entirely possible that she misplaced it. But  
19 to this day, we have not found them. There are lots of green  
20 cards that get signed. We have not gone through trouble of  
21 making sure that this green card matches the green...you  
22 know, you could...you could put a green card with anything.  
23 But the point of the matter is it just doesn't matter because  
24 we thought they had not gone to the Board to get a pooling



1 order. It is my very, very strong belief that you must have  
2 a pooling order before you can have a well permit application  
3 when the properties involved despaired ownerships, when you  
4 have a pooling of different interests. For example in this  
5 one, there are numerous owners. It is a 320 acre unit. You  
6 have to give notice then to the coal owners and the royalty  
7 owners whose interests underlie that tract when you go to  
8 get the well permit. No permit for a well can be issued  
9 without...this is a quote direct from the statute, "without  
10 proof that the applicant has the right to conduct the  
11 operations set forth in the permit application". If you  
12 don't have a pooling order, you cannot prove that you have  
13 the right to conduct operations that are going to draw gas  
14 from your neighbor's property in this 320 acre unit. It is  
15 a fact that you simply must have a pooling order. We thought  
16 CNX was jumping the gun and skipping that step. It turned  
17 out at the hearing in the first about 30 seconds Mr. Swartz  
18 pooled out his proof of service and we accepted it and we  
19 moved on to talk about this statute that's in front of you,  
20 which was the sole issue. At no point in time during this  
21 informal fact-finding was it raised by Mr. Swartz or by  
22 anybody else present that there is some duty on the part of  
23 the coal owner or the complainant to show up and object at  
24 the pooling order application in order to preserve an error

1 or an objection to the well permit. This is brand spanking  
2 new law created out of thin air in the Interim Director's  
3 opinion. This is the first time in my approximate 20 years  
4 of being involved with this Board that I've ever seen any  
5 hints of it. It is not contained in the Code. It is not  
6 contained in the regulations. It is not contained in the  
7 Administrative Process Act. Mr. Cooper used the word...so,  
8 therefore, it came as quite a surprise when we get an opinion  
9 from the Interim Director saying, I understand your  
10 arguments. I'm not going to address those except to say  
11 that if I had to I'd probably like Mr. Swartz' opinion better  
12 than Mr. Sexton's opinion, but I'm not going to do that.  
13 What I'm going to say instead is I'm going to create this  
14 new law that if you don't show up and make an objection at  
15 the pooling order application process then you are forever  
16 barred, estopped and waived from raising your statutory  
17 objections at the permit application phase. That came as  
18 quite a shock. What I would ask the Board to do is very much  
19 in the interest of future people who will be sitting in my  
20 position here is you not...is you resist the urge to create  
21 new law and to affirm new law that has been created that way.  
22 We have a system in Virginia. It's called the rule of law.  
23 It has been in place for quite some time. People need to  
24 be on notice of what their rights are. If they are not on

1 notice of what their rights are, then it is an arbitrary  
2 system. If you do not have a Code section or a regulation  
3 or an order or anything of the type that says if you don't  
4 raise this at a pooling order application you are barred,  
5 then you are creating this. This is trial by ambush. You  
6 are not advising people of their rules. Mr. Cooper used the  
7 word in this thing waiver. Waiver under Virginia law is a  
8 conscience act. It is impossible to accidentally waive a  
9 right in Virginia. You cannot accidentally waive something.  
10 It must be intentional. Let me give you an example. If you  
11 have an elderly mother and someone sends her a check saying  
12 we've leased your property and here is your royalty check,  
13 she gets the check and she doesn't know what she's doing and  
14 she signs it, right, and then later on you say, well, she  
15 didn't agree to a lease. Well, she signed the check. She  
16 waived her right to object to the lease. No she didn't.  
17 You have to prove that she understood what she was doing.  
18 She intentionally waived her rights. That's how our system  
19 works in Virginia. Now in our case, the Interim Director  
20 was focused on this issue of the fact that we could not find  
21 our copy of the notice. But by any measure, the evidence  
22 proved that my client did not know of the pooling order  
23 application. Let me tell you, it wasn't because we would  
24 have come in and objected on the 2500 foot rule. It is

1 because we have been waiting for these pooling order  
2 applications because my client is a co-owner on properties  
3 in that area in which CNX has entered into a gas lease with  
4 our co-tenant. We're the two-thirds owner and Plum Creek  
5 is a one-third owner on a vast amount of acreage. We have  
6 been waiting and watching for a pooling application so that  
7 we could come before the Board and say this. We want to say  
8 we should be treated just as this other co-tenant is. If  
9 you're going to pool us, we want their lease terms because  
10 we have been willing to enter into that lease. In fact, we  
11 seek to enter into a similar lease with them but CNX has no  
12 interest in entering into such a lease with us or none that  
13 they have expressed so far. So, we are watching very  
14 closely for the pooling order because we want to come before  
15 this Board and say, listen, if you're going to force pool  
16 us give us the same lease terms, the same 20% royalty that  
17 you're giving to our co-tenant. Give us the same deduct  
18 language that you're giving to our co-tenant. So, that is  
19 why we would have been watching for the pooling order  
20 applications and not to come in and say because you didn't  
21 we're going to object under the 2500 foot rule. Now,  
22 the...that is the context there. There are many things that  
23 somebody in my client's position might want to watch for in  
24 a pooling order application and there are certainly no

1 indication in the Code that you would have to come in and  
2 state every objection because our focus at that might have  
3 been we want the same lease terms. Well, this Board may  
4 decide that you don't get the same lease terms. This Board  
5 might very well rule against me if I had come before you on  
6 a pooling order. I hope you wouldn't. But you might say,  
7 well, we're just going to give you the same ones we've been  
8 doing for the last 20 years, one-eighth royalty, reasonable  
9 deducts, a dollar an acre bonus...the same things that have  
10 happened for the last 20 years. If you did that I might  
11 say...I might say then, well, then I don't want the well.  
12 I don't want to participate based upon a one-eighth royalty  
13 with a dollar fifty deducts and so forth. At that point,  
14 I might exercise my rights as a co-owner to object to the  
15 well. So, what I just explained to you is a practical reason  
16 why the person in my client's position might change based  
17 upon the results of the pooling order. So, if we could, I  
18 would like us to quickly move from the actual contents of  
19 the Director's decision. I suggest to you that it needs to  
20 be overturned for precedent purposes. I know just from a  
21 brief conversation that Ms. Pigeon disagrees with me. I  
22 would have actually fainted had she not because over the past  
23 20 years we also have a history of absolutely never agreeing  
24 on anything. So, I just want you to think about it and I

1 assure you I'm giving you my best legal opinion when I tell  
2 you, you cannot make up new procedural rules and thrust them  
3 onto the...onto the applicants and the objecting parties at  
4 the last minute. The notion that you're going to apply  
5 Common Law evidence and affirmative defense issues in this  
6 context is completely inconsistent with the Code, which says  
7 the informal fact-finding conference and these hearings  
8 will be judged by the Administrative Process Act. Okay, so  
9 this...this is all new territory. I urge you to deal with  
10 the real substantive issue and not take the...not take the  
11 way out that is offered before you in the Director's opinion.  
12 Now, if we look at 45.1-361.12, the 2500 foot rule, Mr.  
13 Swartz's position is that the objecting coal owner only gets  
14 to object if the wellbore is going to go through that coal  
15 owner's coal. All right. That's it. That's CNX's  
16 position. It doesn't say that though. All right. So,  
17 let's look at the terms and see if anywhere in this  
18 Code...particularly in this Code section does it say  
19 anything about the wellbore having to penetrate your coal.  
20 So, here it says, "If the well operator and the objecting  
21 coal owners are present or represented at the hearing to  
22 consider to the objections to the proposed drilling unit",  
23 that's the pooling order, and then there's an  
24 important...important word "or location", that's talking

1 about the well permit, "or unable to agree upon", and I've  
2 highlighted again, "a drilling unit", that's the pooling  
3 order, another important word again, "or location for a new  
4 well." That's the well permit hearing. All right. So, it  
5 clearly says in this statute a coal operator who is present  
6 and objecting to the location of the well. That was use.  
7 We own the coal. We came to the permit hearing. We  
8 objected in writing beforehand. We procedurally did  
9 everything and we came and we said, we are a coal owner and  
10 we object to the well. "But if they are unable to agree upon  
11 the location for a new well within 2500 linear feet of the  
12 location of an existing well", now these words are very  
13 important, "then the permit or drilling unit shall be  
14 refused." It doesn't say if you have preserved your  
15 objections at a pooling order permit that you didn't know  
16 you had to come and object to, but...blah, blah, blah. It  
17 doesn't say any of that. It doesn't if the wellbore is going  
18 to penetrate your coal seams. It wouldn't make sense for  
19 it to do so because of the point that I made to you when I  
20 began. Coal mines are developed based upon a  
21 conglomeration of units. In order for our coal to be  
22 developed the mine must be economic. If you have all of  
23 these obstacles in the mine and you're looking at it as an  
24 operator, and you say, well, should I mine this tract right

1 here where we've got 15 wellbores that we're going to have  
2 to mine around or should I mine this tract over here, which  
3 has none or which has only one every 2500 feet? The sensible  
4 operator given the same thickness of coal and quantity of  
5 coal is going to go for the coal that has the fewest  
6 obstacles. That is why this is here. So, we have no mine  
7 plan. We're never going to have a mine plan. In our entire  
8 history of our companies that have been in existence for over  
9 a 100 years, we have never had a mine plan. We are not in  
10 the business of having mine plans. We're in the business  
11 of trying to convince people like Mr. Swartz's coal  
12 affiliate that they should have a mine plan and that they  
13 should drill our coal in conglomeration with our neighbor's  
14 coal. So, if you...if you are anxious to have some  
15 rationale for why this 2500 foot rule makes sense that is  
16 one because the...because of that issue in and of itself.  
17 So, we think it's very simple. We think that the 2500 foot  
18 rule is an absolute. It does not have the conditions on it  
19 particularly not the conditions that have been imposed on  
20 it by the Director's opinion. I'll be happy to answer any  
21 questions which you all may have. I'd probably like to  
22 respond to whatever Mr. Swartz says.

23 BUTCH LAMBERT: Okay. Has the Board had an  
24 opportunity to review both the informal fact-finding  
25



1 conference decision and the petition from Mr. Scott Sexton?

2 BILL HARRIS: I do have a question and maybe this  
3 will be more appropriate later. But actually I had a  
4 question about the objecting coal owner. How...is that  
5 defined somewhere? I read all of the materials, but I...but  
6 in terms of an objecting coal owner is that...in the statute  
7 is that defined?

8 MARK SWARTZ: As opposed to a coal owner?

9 BILL HARRIS: Yes.

10 MARK SWARTZ: Okay, there's a definition of coal  
11 owner, which is broad enough to include people who own coal,  
12 who mine it, who lease it, who produce it and who have a mine  
13 plan. So, it's very inclusive definition. But there is no  
14 definition in the Code about objecting.

15 BILL HARRIS: For objecting, okay.

16 BUTCH LAMBERT: The coal owner is defined as: "Any  
17 person who owns, leases, mines and produces or has the right  
18 to mine and produce a coal seam."

19 BILL HARRIS: Yeah, I remember that. Yeah. Yeah.  
20 I guess what I'm asking is was it stated there what the nature  
21 of the objectives...the objections could be? That's not  
22 listed other than the reference to the 2500 foot. In other  
23 words, the assumption when I start reading is "If a well  
24 operator and the objecting coal operator...", the

25

1 assumption here is that the coal operator, to use that part  
2 of the statute, is already objecting. I guess I'm just  
3 trying to position in my mind when did that become objecting  
4 is that defined some place. And we're saying it's not?

5 MARK SWARTZ: Correct. If you look...I assume  
6 you're looking at 361.12.

7 BILL HARRIS: Yes.

8 MARK SWARTZ: Okay. I mean, the objecting in that  
9 first line there is an adjective that is applied to coal  
10 owners and I read that as comparing two classes of coal  
11 owners, those who show up and are objecting and those who  
12 are coal owners but are not objecting. So, it simply to me  
13 means if some...if a coal owner shows up at a hearing and  
14 says, I'm raising a 361.12 objection, they have just placed  
15 themselves in the position. It's not some other reference.  
16 I mean, I...now, is that stated somewhere? No. But I think  
17 my reading of this if you show up and rely on 12 you become  
18 an objecting coal owner.

19 BRUCE PRATHER: I've got a question.

20 BUTCH LAMBERT: Mr. Prather.

21 BRUCE PRATHER: Mr. Swartz, am I right in assuming  
22 that CNX has 40% or thereabouts of the coal under this  
23 property that's in dispute? In other words, you have from  
24 this other company you've got a lease with them. Is

25

1 it...are their interest under that? So, what I...one of the  
2 problems that I can see that you've got signed lease under  
3 40% of the thing. How do we protect those people's interest  
4 that these people's expense or vice versa? Is that...I'm  
5 I correct in assuming that?

6 MARK SWARTZ: I'm looking for the Exhibit A page two  
7 that we would normally have that would summarize what we've  
8 got leased and what we don't have leased.

9 SHARON PIGEON: This is a conventional well. So,  
10 that may or may not---.

11 MARK SWARTZ: Right. But, I mean, just in terms of  
12 what we're pooling here. I've got...we had almost 80% of  
13 the oil and gas leased and we're pooling about 20%. We  
14 didn't address coal leases because this is not a coalbed  
15 methane well.

16 BRUCE PRATHER: Yeah. It's a horizontal well,  
17 isn't it?

18 MARK SWARTZ: It's a shale well though. It's in the  
19 Huron.

20 BRUCE PRATHER: Yeah. But it's a horizontal well,  
21 a 320.

22 MARK SWARTZ: Correct. Correct. So, we didn't  
23 address...I'm sure we have coal leases in that unit.

24 BRUCE PRATHER: Yeah.

25

1           MARK SWARTZ: But, you know, they're not relevant  
2 to this well.

3           BRUCE PRATHER: Well, the thing that would bother  
4 me about it is that if you have coal leases it would be within  
5 the framework of this permit. It looks to me like you're  
6 in kind of strange situation because you've got to protect  
7 your leased people plus the fact that you've got a---.

8           MARK SWARTZ: No, no. We have...I'll give you this  
9 exhibit in a minute. But we have consents to the location  
10 from all of the coal owners whose coal we actually penetrate.  
11 I mean, we're good to go on the well.

12          BRUCE PRATHER: Oh, so you're not penetrating his  
13 coal?

14          MARK SWARTZ: Correct. We are not. We're a  
15 long... and I'll show you that in a minute. But we're a long  
16 way from their coal.

17          BUTCH LAMBERT: Mr. Swartz, can I ask a question?

18          MARK SWARTZ: Yes.

19          BUTCH LAMBERT: I hate to interrupt. But how deep  
20 is this well?

21          MARK SWARTZ: I think it's 6,000 and change in  
22 the...actually, I made some notes with regard to that from  
23 the permit. I think the coal seam is roughly at 2,000. So,  
24 we're, you know, 3,000 to 4,000 feet below the Pocahontas

25

1 3---.

2 BRUCE PRATHER: Right.

3 MARK SWARTZ: ---in the red and green shales. So,  
4 we're way below---.

5 SHARON PIGEON: Your AFE said 8,000.

6 MARK SWARTZ: I was looking at the permit though and  
7 I thought it was...I don't have it in front of me. So, it's  
8 a great distance below---.

9 BUTCH LAMBERT: Well, is it below 5,000...below  
10 5,000 feet?

11 MARK SWARTZ: Oh, yes.

12 BUTCH LAMBERT: Okay.

13 BRUCE PRATHER: Yeah.

14 BUTCH LAMBERT: Before we get into the specifics of  
15 the location, the depth and ownership and the leases, I'd  
16 like to take...Mr. Sexton, I'd like to take you back to the  
17 pooling order and you're claiming that...or you're saying  
18 that we should ignore the issue that you say you didn't  
19 receive notice and we should just disregard. Because I  
20 didn't receive my notice...I didn't know I received notice,  
21 therefore, the Board, you don't need to take into  
22 consideration. How...what's your logic there?  
23 Everything---.

24 SCOTT SEXTON: My logic is this---.

25

1            BUTCH LAMBERT: ---we base upon these notices is  
2 based upon whether or not you received it and you're saying  
3 you didn't. I even went back and read the hearing that Mr.  
4 Asbury conducted. Right off the bat, you know, you all...  
5 you're saying we didn't know we got notice. I think you  
6 admitted it in 30 seconds. All of sudden we were shown we  
7 did get notice. Even in your hearing you say right off the  
8 bat a part of the pooling process is to allow objections for  
9 parties like us. Also at the beginning of the process  
10 offering alternatives. So, how do you...how do you want  
11 this Board to skip that process and just jump into 45.1-361?

12            SCOTT SEXTON: What I'm explaining to you is the  
13 reason why that was raised at all in the hearing. The reason  
14 was in our opinion had CNX failed to get a pooling order,  
15 that would...that in and of itself...we walked into that  
16 hearing thinking they had failed to get a pooling order  
17 because we called the Gas and Oil Board and asked if there  
18 was a pooling order. We got all of the transcripts that had  
19 been issued. We saw no application on those. We did not  
20 see it on the docket as a pooling application for this unit.  
21 So, we thought they were seeking to second base without  
22 touching first base. All right, that's why we raised it.  
23 You can think about it if you want to and give it whatever  
24 weight you want to. What I'm saying in terms of our

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1 complainant role within 30 seconds of the hearing or  
2 thereabouts Mr. Swartz presented proof that we had been  
3 served and that he had gotten a pooling order and it pretty  
4 much mooted the issue. it was no longer discussed. We  
5 talked about the same things that we're talking to you about,  
6 which is the 2500 foot rule. I guess what happened in there  
7 is then there becomes this...from our standpoint a derailing  
8 of that issue, which started out as our issue of objecting,  
9 CNX skipped first base to using our affirmative defense  
10 of...or our defense of saying, listen, they didn't need a  
11 criteria. They're not qualified to file this permit  
12 because they're not authorized to conduct the operations  
13 thereon through a pooling order. That gets turned around  
14 and then it's, well, because you didn't know about the  
15 pooling order and because you didn't show up and because and  
16 because and because of that then you...then you can't raise  
17 it at a well permit hearing. I will continue to say this  
18 to you, you will be radically changing the process of this  
19 Board and for a great many issues if you adopt that logic  
20 that has never ever, not once in my experience, been  
21 announced by anyone either verbally or through regulation  
22 or through the law as a condition to raising issues at well  
23 permit application hearings.

24 BUTCH LAMBERT: So, you're telling this Board

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1 because that you failed to show the pooling order hearing  
2 and you've acknowledged that you received notice and you  
3 didn't show anyway that not only does this Board need to  
4 change that direction but every time that there's any kind  
5 of a judicial hearing or any kind of enforcement action that  
6 the DGO takes and they mail out a notice to attend the hearing  
7 and you don't show that you can come back and say, oh, I  
8 didn't show up because I didn't know I was supposed to or  
9 I didn't get it, so we've got to change this...what this  
10 Board looks at plus everything out in the world that requires  
11 a public notice?

12 SCOTT SEXTON: No. I'm suggesting that you play by  
13 the rules that every other governing body does in civilized  
14 rule of law of societies. That is if you have a rule you  
15 announce it. You do not make it up as you go. That is what  
16 I am suggesting to you. If it so important to this body that  
17 everyone who gets a notice...bare in mind, that's not a  
18 subpoena. That is not something that requires attendance,  
19 right. A pooling order application if done correctly would  
20 focus on force deemed lease terms. It would focus on the  
21 unit that was being pooled. It rarely, if ever, focuses on  
22 where the location of the well is going to be. That's  
23 handled by the Director. By the way, it can change  
24 radically. I would dare say there are a great percentage



1 of applications where once you establish the pooling unit  
2 which has precious little to do with the location of the well  
3 and everything to do with pooling ownership units in terms  
4 of deemed lease and whether those owners in that unit are  
5 going to be carried, are they going to be working interest,  
6 are they going to choose to participate or are they going  
7 to be deemed leased? Those are the issues. The location  
8 of the well is not the...not the issue. I think if you would  
9 think back you would find that that is very consistent with  
10 your own experience. How many pooling order applications  
11 has the location of the well been dealt with? Because it  
12 would be putting the cart before the horse. Let's first  
13 figure out if Mr. Swartz's client is going to have this  
14 pooling order. Let's figure out if he has the power to  
15 produce your gas. If he does, then we will deal with issues  
16 relating to the well. But it would not surprise me at all  
17 to have a pooling order issued that identified one location  
18 of a well and then have a well permit and have it moved  
19 slightly. Well permits get moved all the time. They get  
20 moved because surface owners say you're putting it on  
21 my...my hay area. I prefer that you put it on the side of  
22 the mountain, all right. I would suggest back to you what  
23 if I had come? What if Mr. Hart's child had a ballet recite  
24 that day and he said, you know, I'm willing to accept the

1 deemed lease so long as I get to note my objections to the  
2 well permit. Are you saying now that these subpoenas when  
3 you get notices and that everyone who receives this sacred  
4 piece of paper must show up and at least be present? I don't  
5 think you are. Are you saying that if he loses, say Mr. Hart  
6 came before this body and he said, I want to object based  
7 on the 2500 foot rule. By the way, I think I'm not going  
8 to consent to stimulate my coal. Let's say it was a coalbed  
9 methane well, right. Are you then saying that he is  
10 estopped. And say this body says, we're not going to talk  
11 about that or we're going to grant the pooling order anyway.  
12 But it's not clear whether you considered it or not. It's  
13 not clear whether you made a final ruling on it. Is he  
14 prevented from later raising it at a well permit hearing?  
15 Of course not. If he is, it has to be said somewhere. All  
16 right, these are de novo proceedings. If we don't like your  
17 proposal...I mean, your ruling, we get to take it de novo  
18 to the Circuit Court. What I'm asking for you to do is if  
19 you would please, if you're going to rule against me, rule  
20 against me on the substantive issue of whether the 2500 foot  
21 rule applies in these circumstances and do not make up some  
22 procedural gimmick that has never been publicized because  
23 if you do I will have to take that order to the Circuit Court.  
24 I will then have the Circuit Court, and I would bet you 99%

1 they would agree, that you would have to published your rules  
2 if you're going to use rules of that nature. They will  
3 reverse it and I still won't know and neither will CNX if  
4 this body is going to apply this according to the words that  
5 are printed on the page. Not according to the words that  
6 Mr. Swartz wants to impose on it. CNX definitely knows its  
7 way to the General Assembly in Richmond. If they don't like  
8 this and if they want o say only if it penetrates it, then  
9 they can go and do it. But if they do that then Mr. Ratliff's  
10 organization is going to be able to express the concerns of  
11 the coal owners at that. It will be a fair discussion and  
12 it will be hashed out in the General Assembly with the gas  
13 interest arguing their position and the coal interest  
14 arguing their position. It should not be hashed out by  
15 simply changing the meaning of the clear statute  
16 without...without that type of process, at the very least  
17 a regulation. So, that's my position, and, you know, accept  
18 it or reject it. It is what it is. There are two issues  
19 before you. Do you impose new procedural rules that have  
20 never been disclosed that we have been given no notice of  
21 and that we have not operated under? That's questions  
22 number one. Question number two, do you apply this statute  
23 by its plain meaning or do you add to it comma "only if the  
24 wellbore penetrates the coal seam owned by the objecting

1 coal owner". I would submit to you that every coal owner  
2 has an interest in this issue. They would want to preserve  
3 their simulated rights in these...in these areas and not in  
4 just specific tracts. Otherwise, why would they...why  
5 would it even be in there? Why would 2500 foot even be in  
6 there?

7 BUTCH LAMBERT: Well, thank you for taking the  
8 notice issue back right around to where we were when we quit  
9 this.

10 SCOTT SEXTON: I'm just here to present the issues.  
11 You all get to make the decisions.

12 BUTCH LAMBERT: That's right. Telling us you will  
13 take it on to Court, that's fine if that's what you choose  
14 to do. But this Board, we make our decision and if you want  
15 to take it further you certainly have that right to do so.  
16 To make that statement right off the bat before we make a  
17 decision, you know, that's...that's your choice, I guess.

18 SCOTT SEXTON: Well, it was not intended as  
19 disrespect or as a threat. What it was intended to say is,  
20 can it go up on the issue that was at the informal  
21 fact-finding conference rather than some other issue that  
22 neither Mr. Swartz or his client nor me or my client argued.  
23 Nobody raised this issue. CNX did not say they waived  
24 their right. They should have presented it at the pooling

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1 order. This is a sua sponte issue that came up sometime  
2 between when we argued and when the Interim Director, who  
3 I don't think was present at the actual hearing, wrote the  
4 opinion. All right, so if you want to talk about waiver,  
5 CNX goes to the hearing. They have our written objections.  
6 They don't even argue that we've waived anything. Yet we  
7 get some order in the Court...in the mail that says you've  
8 waived everything. So, failure to raise a defense is a  
9 waiver if we're going to start implying a lot of Common Law  
10 in these proceedings without actual rules. So, my point  
11 though, Chairman, was not say...not to imply any disrespect  
12 or threat. What I'm saying is could it please go up on the  
13 issue that we're trying to get a resolution on because that  
14 would be helpful whereas going up on is it incorrect to  
15 create procedural rules (inaudible)? That was my point.

16 BUTCH LAMBERT: Any other questions or comments for  
17 Mr. Sexton?

18 (No audible response.)

19 BUTCH LAMBERT: Mr. Swartz.

20 MARK SWARTZ: I have a very colorful exhibit. I'm  
21 going to stand out here.

22 (Mark Swartz passes out the exhibit.)

23 MARK SWARTZ: This is a plat or a map of the unit  
24 that this Board created when we had the pooling hearing. It

25

1 put together the D-20, 21, E-20 and 21 units to create a 320  
2 acre unit to accommodate this horizontal well. Just a  
3 couple of preliminary facts about the well. The wellbore  
4 is at the very...is identified as the D20SH that's shale at  
5 the very...it would be the northwest sort of corner of the  
6 320 acre unit. So, that's the wellbore. The coal that that  
7 wellbore would penetrate then would necessarily be in the  
8 far northwest corner of that 320 acre unit. The red line  
9 coming from that wellbore, which is now coming horizontally  
10 from the wellbore that proceeds in a direction generally  
11 from the northwest to the southeast, that red line, is, you  
12 know, several 1,000 feet and it proceeds horizontally as  
13 depicted on this map. The blue portion of this map  
14 represents the coal in which Mr. Sexton's clients have an  
15 ownership interest. So, you can see that the wellbore does  
16 not penetrate any of their coal and is, in fact, several  
17 1,000 feet away from any of their coal. In addition, the  
18 red line demonstrates that not only does the wellbore not  
19 penetrate their coal but the objecting party's coal is not  
20 over the top of the horizontal leg of this well either.  
21 While I had some time, as Mr. Sexton was finishing up, I went  
22 to the permit application and looked at...to try to give a  
23 little better answer to the question that he raised with the  
24 depths and so forth. The permit application showed the

1 estimated depth of the completed well on form DGO G09E as  
2 6570 feet. You know, the estimated may well have been...I  
3 don't have that available to me. And then when I look at  
4 the coal section piece of the permit as well, it shows the  
5 Pocahontas 3 seam at 2,039 feet. So, basically there's  
6 a...you know, a 4300 foot separation between the P-3 seam  
7 and the vertical leg is 4,000 feet below that. But, of  
8 course, you know, the vertical leg of this well doesn't get  
9 under the blue coal either. So, in terms of just kind of  
10 sitting the factual stage of where is this well, where is  
11 the coal that Mr. Sexton's clients have an interest, that  
12 is accurately depicted on the exhibit that I have given you.  
13 Another point that I want to raise preliminarily is I went  
14 and looked back at the...at the pooling order here and, you  
15 know, we need to...probably need to do some thinking about  
16 what happened at the pooling hearing in this case. The  
17 pooling hearing was held, let me see here, on...I should be  
18 able to tell from the order here, on May the 17th, 2011.  
19 Now, this is a...this unit that we're talking about here is  
20 the kind of unit that guys create one at a time. It's not  
21 like the Oakwood Field or the Nora or the Middle Ridge where  
22 we come in and we've already got a unit, okay. So, the  
23 application that we filed and that we mailed to these three  
24 companies that they all signed for didn't just seek to pool

1 a unit. It seeked...it sought to create a unit, okay. The  
2 pooling order that was entered actually talks about the  
3 relief requested, but then it has a part relief granted. In  
4 the relief granted on May the 17th item one is, and this is  
5 from your order, "The Board hereby establishes subject  
6 drilling unit pursuant to Virginia Code 45.1-361.20 and to  
7 pursuant to Virginia Code 45.1-361.21 (C3) you designate CNX  
8 as the operator." It goes on to say, "CNX as operator is  
9 authorized to drill and operate well number D20SH in the  
10 subjected drilling unit at the location depicted on the plat  
11 attached hereto", and there was a well located on Exhibit  
12 A. Now, let's go to the exhibit that Mr. Sexton gave you  
13 all and he talked at great length about the pooling hearing,  
14 okay. Well, you'll notice that...I don't think he ever  
15 mentioned the hearing to create the drilling unit when he  
16 was making his remarks to you. But if we look at 361.12 it  
17 says, "If the well operator and objecting coal owners  
18 present or represented at the hearing", now what kind of  
19 hearing, "to consider the objections to the proposed  
20 drilling unit and not the pooling." The proposed drilling  
21 unit or the location. So, at this pooling hearing that we  
22 had on May the 17th that we mailed them three sets of notices  
23 that they all signed for, it wasn't the typical pooling  
24 hearing under the Oakwood rules, the Middle Ridge rules or,



1 you know, the Nora rules where we've already got a unit. It  
2 was a two-part. It was, one, please permit...please create  
3 this unit for us and then if you choose to do that, please  
4 pool that unit. You know, this statute specifically  
5 applies to the situation that we had on May the 17th. If  
6 you're going to create a drilling unit and a coal owner shows  
7 up at that hearing to create a drilling unit, and it says  
8 that, it's not to pool a unit, it's to consider objections  
9 to the proposed drilling unit or location. They had an  
10 opportunity to come to that hearing to object to this unit.  
11 That it was too big or too small or whatever. They had an  
12 opportunity to object to the location and they didn't. This  
13 is not some rule that the Director made up out of thin air.  
14 I mean, we're not talking about making stuff up here. This  
15 is a Virginia statute. Now---.

16 SCOTT SEXTON: Mr. Chairman, I hate to interrupt,  
17 but I do need to note an objection just because...and then  
18 I'll stop. I would like to note an objection that Mr. Swartz  
19 is raising an issue that he did not raise at the informal  
20 fact-finding conference and he is prohibited from doing that  
21 under...under the rules for this appeal and he has moved well  
22 beyond anything contained in Mr. Cooper's opinion which did  
23 not focus on the fact that this was a creation of a unit.  
24 I think it dealt with the pooling aspects, which was what

1 was discussed. So, I simply note that for purposes of the  
2 record that Mr. Swartz has gone well beyond that and he's  
3 arguing new issues that were not presented at the informal  
4 fact-finding conference.

5 BUTCH LAMBERT: Your objection is noted, Mr.  
6 Sexton. I'm going to let him continue because you gave us  
7 your explanation of 45.1-361 and I'd like to hear his  
8 interpretation as well. I think the Board probably could  
9 benefit from that as well.

10 MARK SWARTZ: So, in a nutshell, a difference  
11 between...there's a tear in the vortex here, okay. Mr.  
12 Sexton is on one side of the tear and I'm on the other side  
13 of the tear, okay. And the dividing line is...and often  
14 when I hang with Mr. Sexton, I feel like I have been  
15 transported through a vortex, you know.

16 SCOTT SEXTON: Your vortex is getting tarnis-.

17 MARK SWARTZ: But in any event, the difference...a  
18 difference...a significant difference between the two of us  
19 on this issue is what was the relief that was sought at the  
20 pooling hearing? I mean, what were we asking for? What did  
21 the Board give us at that pooling hearing and, frankly, the  
22 Board created this unit and it authorized us to drill at this  
23 location. So, it was the perfect time for a coal owner to  
24 show up and say we have a problem. So, the suggestion and

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1 this is what provoked the objection, I hope it doesn't  
2 provoke it all over again, but the suggestion that Mr.  
3 Cooper, you know, made up some new rule here and then stuck  
4 them with it to deny their objection is just flat wrong. I  
5 mean, this is a Code provision. It has been on the books  
6 since 1990 at least and it says what it says and when you  
7 compare it to what occurred at the pooling hearing and the  
8 hearing that created this unit, you can see that the section  
9 would have applied at that hearing if they had come to the  
10 hearing, okay. Now, I will tell you that I have made...you  
11 know, in terms of talking about new concepts, you know, I  
12 have been doing this for a while. I am told that I've made  
13 objections on behalf of Island Creek and others in the past  
14 under the coal veto rule. I'm sure...I mean, I don't  
15 remember specifically, but I'm sure that I have. But I can  
16 assure you that I have never on behalf of one my clients  
17 objected under 361.12 unless the wellbore actually  
18 penetrated my client's coal. Then we sort of get back to  
19 is there some confusion as to the intention of the  
20 legislature in creating this regulatory scheme here. I  
21 mean, we have permitting provisions that require notice to  
22 coal operators within a certain distance of a well. We have  
23 permitting requirements that require you to obtain a consent  
24 to stimulate if you're going to be messing with a coal seam.

1 We have all of those notice requirements related to  
2 permitting. We have requirements with regard to who do you  
3 notice when you're creating a unit as we did in this case.  
4 When you look at the statutes collectively that the  
5 legislature passed with regard to conventional gas  
6 development and coalbed methane development in the context  
7 of what did the legislature have in mind with regard to coal.  
8 There's no question that when you look at the oil and gas  
9 act in 1998 the legislature clearly shows us that they were  
10 concerned that they put in place some mechanisms to allow  
11 coal owners and coal operators to mine their coal and to not  
12 have it sterilized or unfairly sterilized or their rights  
13 limited by oil and gas development. I mean, the 2500 foot  
14 rule or coal veto, in addition to the other limitations on  
15 oil and gas and coalbed methane development, clearly  
16 indicate that the legislature intended to give some  
17 additional protection to coal operators to allow mining.  
18 Now, let's look at Mr. Sexton's argument because I've kind  
19 of come...so, I think we all know...at least I feel like we  
20 should all know what the legislature had in mind and they  
21 really intended 361.12 to afford some safe haven or  
22 protection to coal owners and operators. What Mr. Sexton  
23 is saying though is that it is reasonable to pretend, assume  
24 or think that the legislature when it passed 361.12 intended

1 to protect every coal owner in the universe, okay. Meaning,  
2 it doesn't...this well doesn't have to through your coal.  
3 The legislature didn't really have that in mind. They  
4 weren't worried about protecting coal that wells went  
5 through, they were worried about protecting coal owners  
6 wherever they might be. The West Virginia State line is  
7 pretty close to this well, okay. I live in West Virginia.  
8 I own fee in West Virginia. Can I come in to a permitting  
9 hearing...a hearing to create a drilling unit in Virginia  
10 and say, you know, I may own some coal as part of my fee  
11 interest that I have in West Virginia and I'm going to object  
12 under the 2500 foot rule. Well, if you read the statute like  
13 Mr. Sexton is suggesting it should be read, everybody in the  
14 United States who might have a coal interest could come to  
15 a hearing in West...in Virginia and say, you know, I got on  
16 the internet and I was surfing and I discovered there was  
17 going to be a permitting hearing today or a unit was going  
18 to be created today and I thought I would come and object  
19 under the 2500 foot rule. That's absurd. There is no way.  
20 There is a fair amount of...I'm not going to wear you out  
21 with this, but I think sometimes...I think sometimes  
22 regulatory bodies such as yourselves forget that you really  
23 perform the same function that Court's perform. I mean,  
24 part of Mr. Cooper's job and part of your job is to take the

1 statutes that the legislature gives us, to take the facts  
2 that you have on the table in front of you and to make a  
3 decision whether the statute applies or how it should apply.  
4 So, you know...and this applies for every regulatory board  
5 in this state. I mean, it's common. You know, you have the  
6 discretion and the jurisdiction to take the laws and apply  
7 them to the facts within your purview. Just like Courts,  
8 you know, you should be attentive to the breath of your  
9 decisions and whether or not they make sense. I'm just  
10 going to share a couple of things with you from the  
11 Administrative Law Provisions and Construction Provisions  
12 that actually apply, you know, in...in Virginia generally  
13 to bodies that make decisions like the one that Mr. Cooper  
14 made and the decision that you're being asked to make.  
15 There's a Virginia case, it's a 1926 case, *Tobacco Growers*  
16 *versus Danville Warehouse Companies*, 144 VA 456. I really  
17 like this case because of what it says and also that it relies  
18 on a West Virginia case, for goodness sakes, to get to the  
19 point that it wanted to get to. But it says, "The limits  
20 of application of a statute are generally held to be  
21 coextensive with the evil for a purpose it was intended to  
22 suppress or effectuate." It goes on and says, "They neither  
23 stop short of nor go beyond the purpose the legislature had  
24 in view." What I'm suggesting to you is the reasonable

1 purpose that I think that we can all assume the legislature  
2 had in view when they passed 361.12 was to protect coal  
3 operators whose coal was penetrated by a wellbore and not  
4 a coal operator in some other place or some other state or  
5 some other county or whatever. The same...in Miches  
6 Encyclopedia talks about results thus where a literal  
7 application, which is Mr. Sexton's application, of the  
8 language used in a statute would lead to an absurd result  
9 it is the duty of the Court or the administrative body to  
10 construe statute so as to avoid such a result and adopt a  
11 reasonable construction within the legislative intent and  
12 purpose. The last comment, if a statute is susceptible of  
13 two constructions, that one should be adopted which gives  
14 it a sensible operation. So, a construction of a statute,  
15 which makes its meaning intelligible and plain, is to be  
16 adopted where when any other meaning is attempted to be given  
17 to the statute the statute becomes inconsistent, confused  
18 and unintelligible." So, in summary, I would say I think  
19 361.12 from its actual wording shows an intention that it  
20 can be employed at a hearing where a unit is created, okay.  
21 So, if they had come to that hearing, they could have  
22 employed 361.12 to object to the creation of the unit. It  
23 can also be used to object to the location of a well, which  
24 was addressed by this Board at that very hearing and the

1 Board order allows the well to be located. So, you know,  
2 we're not talking about pooling hearings. We're talking  
3 about creating a unit and having an opportunity to object  
4 when a unit is created and having an opportunity to object  
5 when a unit is created and a well location is determined.  
6 You know, they didn't show up for that hearing and they  
7 should have. So, by the time the case finds its way to Mr.  
8 Cooper's predecessor for an informal fact-finding hearing,  
9 we already had a board hearing. The board has already said  
10 here is the unit and here is the well location. They came  
11 in front of him and say, well, we don't like the location.  
12 His response is guys, you know, I work for them. I mean,  
13 kind of. You know, they've already made this decision.  
14 You didn't show up at that hearing. They're claiming it's  
15 a big surprise to us that we needed to go there. Well, the  
16 statute is pretty clear. So, you know, they didn't object.  
17 They didn't show up at the hearing. We've got a board order  
18 that authorizes this to occur and we have the Division of  
19 Gas and Oil saying, look, you know, these issues have already  
20 been addressed in appropriate manner. As far as he could  
21 tell, notice was mailed, as it should have been, to three  
22 companies and not just one, none of them apparently found  
23 their mail in time to appear. So, you know, I would  
24 encourage you to think about this. But it's obvious that



1 Mr. Cooper spent a lot of time thinking about the statute,  
2 which clearly applies to hearings in which drilling units  
3 are created, and I would encourage you to as an  
4 administrative body that has discretion to apply statutes  
5 to the facts. To think about whether or not it is sensible  
6 to apply this statute to block conventional oil and gas  
7 development when the wellbore does not penetrate the coal  
8 of the objecting party when in fact their coal is several  
9 1,000 feet and when in fact the horizontal leg of this well  
10 doesn't even go under their coal. Is that a sensible  
11 outcome in this context? I would suggest that, you know,  
12 if you think about all of this the reasonable application  
13 of 361.12 would seem to me to require that a coal owner or  
14 objecting party show up and actually say, you know, it's  
15 going through my coal and it's going to have some effect on  
16 me. So, I could go on and on and on, but generally speaking  
17 that's where I'm coming from.

18 BUTCH LAMBERT: Any questions for Mr. Swartz from  
19 the Board?

20 BRUCE PRATHER: I've got a question.

21 BUTCH LAMBERT: Mr. Prather.

22 BRUCE PRATHER: I notice on your map here, Mark,  
23 that there are three wells that are drilled. One is outside  
24 of this unit. There are three wells, E-21, E-20 and C-20.

25

1 Are those wells drilled? If they are producing, each one  
2 of these wells had a part of this blue acreage that is in  
3 that unit. Was it anytime during the negotiations on these  
4 units that they come up with this 2500 foot ruling? In other  
5 words, they had to...they had to make a ruling at that time  
6 whether they wanted to participate or what as far as those  
7 three wells are concerned.

8 MARK SWARTZ: Right. I'm not---.

9 BRUCE PRATHER: I mean, I go the impression that  
10 this was a new thing that had never happened to them before.

11 MARK SWARTZ: Well, I'm just going to stay with  
12 E-21, okay, the well in E-21. I'm thinking that that's a  
13 coalbed methane well probably in the Oakwood. I mean, I'm  
14 just assuming from the mapping here. You'll see that that's  
15 relatively close to their coal. So, my guess is that we  
16 would not have had to create the E-21 unit, okay, because  
17 that was a pre-standing unit. So, if this is not a voluntary  
18 unit and we came here in a pooling, we would have...we  
19 wouldn't have been creating and we would just have been  
20 pooling so that the unit...you know, the 361.11, you know,  
21 wouldn't...we wouldn't have been in front of you to create  
22 a unit at that point and we wouldn't have been---.

23 BRUCE PRATHER: I understand that.

24 MARK SWARTZ: But we would have had to give them in  
25

1 notice in the permitting application---.

2 BRUCE PRATHER: Right.

3 MARK SWARTZ: ---because I think...because I'm  
4 guessing that their coal would be within the frac range  
5 within the 750 feet and there's also a 500 foot requirement.  
6 So, terms of the permitting process, we would have had to  
7 have given these parties notice and they would have an  
8 opportunity at that point if they had chosen---.

9 BRUCE PRATHER: Do you know whether they objected  
10 at that time?

11 MARK SWARTZ: Well, if they had used the 2500 foot  
12 rule we wouldn't have drilled that well because it's pretty  
13 much your debt, you know. I mean, if...well, actually if  
14 they had used there they probably...because it didn't go  
15 through their coal, they would have used the consent to  
16 stimulate. But, you know, they would have got notice if  
17 they had objected to that well based on a consent to  
18 stimulate. I'm assuming what the scale probably is here  
19 they went within 750 feet. But that well did not go through  
20 their coal. Now, I don't see any wells mapped on here that  
21 are through their coal. So, I can't really---.

22 BRUCE PRATHER: Well, that C-20 was going through  
23 their coal up through the north. That's in their---.

24 MARK SWARTZ: Oh. Oh, okay. Yeah. They would  
25

1 have had...obviously, they would have had a 2500 foot  
2 objection to that one and also 20A presumably a consent to  
3 stimulate objection.

4 BRUCE PRATHER: Okay.

5 SCOTT SEXTON: If I may address that, Mr. Prather.  
6 The coalbed methane, all of our coalbed methane is under  
7 lease to Mr. Swartz's client. In that lease, we waived the  
8 2500 foot rule, we gave consent to stimulate and we let them  
9 get carte blanche to do whatever they want to do to produce  
10 the coal methane. We have contracted away our rights.  
11 This is not a coalbed methane well application. This is the  
12 first well application that we've been aware of that was a  
13 conventional well application. Mr. Swartz's client have  
14 chosen with the conventional to enter into a lease with out  
15 co-tenant on very generous terms and they have chosen not  
16 to enter into a lease with us. So, in other words, they are  
17 the ones who have created this brave new world of not having  
18 the contract right to do it. All right. So, I just don't  
19 want you to get caught up on it. It's very different from  
20 a coalbed methane well. They came to us and got a lease back  
21 in 1989 and they have been producing our gas every since.  
22 With the conventional they don't want to come to us and get  
23 a lease. So, they have chosen to not address these issues  
24 by contract. But as Mr. Swartz is very, very well aware

25

1 there is nothing...we could not come in on E-21 and make a  
2 2500 foot rule. We waived in the lease. We cannot object  
3 on a consent to stimulate. It was waived in the lease.  
4 That's what responsible operators do when they can  
5 particularly with coal owners owning 30 something thousand  
6 acres. If you can get a lease from them, we'd go ahead and  
7 do it. And so in this instance what we believe CNX is trying  
8 to do is strong arm us through this board and come up with  
9 these things. I think it is very important after...after  
10 Mr. Swartz did this great job to note he wants you to focus  
11 on the blue at the bottom, all right, and he says it's far,  
12 far away...far, far away. Look at the blue at the top, all  
13 right. This proves my exact point about how our coal gets  
14 mined. Not any of this coal has ever been mined, not the  
15 yellow or not the blue. Now, if I want someone to mine my  
16 blue coal down here on the bottom, do I expect them to pick  
17 up shop and go sink a new shaft up here at the top some, you  
18 know, 3,000 feet or do I expect them to do what they always  
19 do and that is...and that is advance underground in that coal  
20 seam through whoever owns the yellow? But I know this, I  
21 own the blue and a lot more blue up above that. So, what  
22 I want them to be able to do and what our client wants to  
23 be able to do is develop a mine plan that is efficient. Now,  
24 I counted...and there are 14 wells between my blue on the

1 bottom and the relatively close blue on the top. We all know  
2 these are 80 acre units, so start doing the math. You've  
3 got to be...you pretty much have got to be a sloan skier to mine  
4 coal through that. All right. And what we're saying is  
5 that's the reason we have the 2,500 foot rule. It's  
6 certainly not because we care about where the horizontal arm  
7 of this thing goes through the Huron shale. We couldn't  
8 care less. We couldn't care less. It's not the issue. The  
9 whole...Mr. Swartz's point was to show this little arm on  
10 the bottom coming up. That's not the point. What we care  
11 about is the part that goes through the coal seam within 2500  
12 feet because it makes it less likely that you're going to  
13 mine my coal. So, that's...that's the point. This issue  
14 that Mr. Swartz raises is that the 2500 foot rule can only  
15 be raised at the pooling order now that's a new...that's a  
16 new argument if that was what he said when he's saying that  
17 if the pooling application is creating a drilling unit then  
18 that is...that's when you...and only when you can raise  
19 that. That is...that I don't believe is correct because the  
20 location of the well is set finally and permanently by the  
21 well application. If there was a one stop shopping where  
22 you got your well location and your well permit and your  
23 pooling and your unit creation all at that first pooling  
24 order then there would not be a need for the pooling for the

1 permit for a gas well. There would be none of that. You  
2 would not need that. As a practical matter, since I feel  
3 like we are being...you know, there was a mistake made. We  
4 don't know why we didn't get notice this pooling  
5 application. I told you we were very anxiously watching for  
6 it. But I feel like it is being portrayed as some kind of  
7 moral culpability like that we were just, you know, asleep  
8 and eat bonbons and should have noticed that. But I want  
9 to point out to you some of the dates at issue, all right.  
10 The application for this well permit...this well permit was  
11 filed May the 10th. That's recited in Mr. Cooper's opinion,  
12 May the 10th. The hearing on the pooling order was not until  
13 May the 17th. Although Mr. Swartz read from an order that  
14 he says created the unit and the pooling application, I'm  
15 willing to bet that that order wasn't created for several  
16 months after May the 17th. I'm just going out on a limb on  
17 that that the order was not even in existence when we went  
18 before Mr. Asbury and made our informal fact-finding. We  
19 got...we filed our objections in May, all right. We filed  
20 our objections, lets see what did he say, on May the 23rd.  
21 There was nobody asleep at the wheel here. We were paying  
22 attention to the things that we actually had found. So, we  
23 filed our objection to the well permit. Then we had our  
24 hearing on June 11...I mean, June 21. I, again, will

1 suggest to you that in all likelihood that was well before  
2 any order of this board was actually entered. So,  
3 this...there was a purpose of the hearing. It was just a  
4 central location and to authorize the permit for the well.  
5 So, the fact that it's contained in an order that was  
6 subsequently issued on an issue that is probably even  
7 covered at the pooling application. Anyway, I wanted to  
8 bring your attention to that. And, also, I think  
9 that...now, this was an issue that Mr. Swartz raised at the  
10 hearing. He made the same argument that somebody in Utah  
11 could come in and object to this 2500 foot rule. He---.

12 MARK SWARTZ: I didn't use Utah as an example.

13 SCOTT SEXTON: ---didn't use Utah, but some other  
14 state.

15 MARK SWARTZ: (Inaudible).

16 SCOTT SEXTON: There was slight tear in the vortex  
17 at that point. He did make the same argument. That's  
18 obvious nonsense. We are parties who have an interest. We  
19 own coal beneath the unit which has been pooled. We are  
20 entitled to notice. We got notice and that's why we  
21 appeared. This hearing is to cause you to speculate about  
22 whether or not the Director would actually pay attention to  
23 somebody from California or West Virginia even. I'd  
24 suggest maybe they would pay more attention to California

25



1 than West Virginia. In any event, there is a...that's just  
2 a red heron. Somebody had to have a reason and it would be  
3 very easy to blow off somebody who came in and said that they  
4 wanted to waste your time because they owned property in  
5 Sierra, Nevada and feel like they have some affinity to the  
6 coal in Virginia. That's a non-issue. What needs to  
7 happen is the statute needs to be applied by its terms. I  
8 can tell you this, I have been in a situation now where we  
9 represented GeoMet back in 2005. Mr. Swartz's client would  
10 rather pale at the pope than let another gas operator in.  
11 Back at that time gas was trading very high. We snuck  
12 through without their objection some pooling applications.  
13 I think Mr. Harris you probably remember this. We had those  
14 pooling applications. We got them done by the Grace of God.  
15 We had like 10 of them, all right. Then we started doing  
16 the well applications. Well, up shows Island Creek Coal  
17 Company visa via Mr. Swartz for the first time and said, I  
18 except that we're not going to give you consent to stimulate  
19 and except your 2500 foot rule. All right. We went round  
20 and round. It was all about well...are they really a coal  
21 operator if they've got a mine plan. Perhaps, Ms. Pigeon,  
22 you remember giving evidence and saying, well, I've  
23 researched and they do have X number of mine plans in the  
24 area and blah, blah and blah and so forth. It was about P4.

1 We won---.

2 SHARON PIGEON: That was in response to you all  
3 testifying they did not have any.

4 SCOTT SEXTON: Right. We won...we won before the  
5 Director and then we won before this Board, but then we lost  
6 before the Board, you know, after...after it got reheard,  
7 after a great delay in entering the order. But the point  
8 of that is that in all of that time nobody said, well, they  
9 can't come forward and raise an issue at the gas well permit  
10 because they haven't raised it at the pooling application.  
11 They didn't raise any objections to a number of those pooling  
12 application as I recall. But this Board certainly say fit  
13 to overturn the Director's decision granting us a well  
14 permit later on issues that had not been raised at that  
15 underlying pooling application. I'm just point it out that  
16 when I say that there is a long history of not applying this  
17 rule, I have been a personal witness to a portion of that  
18 long history. Not only is there not a rule, not a regulation  
19 and not a statute, but I would suggest to you that the  
20 practice that I'm aware of and I haven't been here everyday  
21 like Mr. Swartz but the practice that I'm aware of is  
22 consistent with my statement to you that this would be new  
23 if the Director's basis is upheld.

24 BRUCE PRATHER: Mr. Sexton, I heard in your

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1 statements just a moment ago that something that troubles  
2 me. I'd like for you to clarify it, please. You were  
3 describing lease and lease terms and you said that  
4 your...when you sublessees or somebody got more lease terms  
5 than what you're going to get and therefore you're  
6 objecting. Could you explain that a little more because to  
7 me you're asking...you're asking this Board because you  
8 didn't your lease terms to deny this hearing.

9 SCOTT SEXTON: It's a very important term that I'm  
10 going to ask you all to pay attention to. Not lessee and  
11 not sublessee, co-tenant. Imagine a situation in which you  
12 own two-thirds of 38,000 acres and Ms. Pigeon owns one-third  
13 of the 28,000 acres in mineral. Ms. Pigeon goes and entered  
14 into a lease for that. You do not. That's the situation  
15 we're in. If you own a two-thirds undivided interest in  
16 100% of it, there is no like map that shows here's my  
17 two-thirds and here is one-third. I own two-thirds of all  
18 of it. Those are the facts that we are in. We are not  
19 complaining to you and saying to you please enter us a lease.  
20 We don't have a lease. That's what we're saying, for  
21 example, to Mr. Prather. We say why is it that we didn't  
22 object to the CBM wells because they contracted with us and  
23 gave...and asked us to waive our rights. They have not done  
24 that here. We don't have a lease. I also gave you that

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1 explanation. That's why we're watching the pooling order  
2 because one day, and I'm sure fruitless so, I will appear  
3 before this Board and I will say, give us better terms than  
4 the same ones that you've been imposing on deemed lease  
5 interest for the past 20 years because I will be able to say  
6 I have a very good example. This operator has given to my  
7 co-tenant a 20% royalty interest and a no-deduct lease and  
8 a very aggressive drilling schedule. I don't care about the  
9 drilling schedule. But I'm not one to be greedy. But my  
10 point is, that's why I had wanted to explain to you. I feel  
11 as if you're looking for some bad motive in everything I'm  
12 saying. I'm just trying to explain to you why it is we were  
13 watching and we're very disappointed that we did not note  
14 the filing of the pooling application. So---.

15 BUTCH LAMBERT: No, I'm not looking for anything...  
16 like you say, any negatives here. I'm just trying to  
17 understand why you're wanting us to deny the decision of the  
18 Director. When you come in and state, well, it's really  
19 because we didn't get the lease terms that we wanted. I  
20 don't know how this Board can help you do that. It---.

21 SCOTT SEXTON: If you hear me saying that, please  
22 don't because that's---.

23 BUTCH LAMBERT: Well, that's why I asked you.  
24 That's why I asked you the question.

1           SCOTT SEXTON: ---what I'm saying. I'm just  
2 explaining the context of why we looked for the pooling order  
3 and why we have not waived by contract as our co-tenant has  
4 the right to waive the 2500 foot rule and any associated coal  
5 rights.

6           BUTCH LAMBERT: Well, let me ask you another  
7 question. Let's go back to your mine plans. You're not an  
8 operator. You've stated that.

9           SCOTT SEXTON: Right.

10          BUTCH LAMBERT: But you lease your coal to  
11 Consol---.

12          SCOTT SEXTON: Island Creek. Island Creek.

13          BUTCH LAMBERT: ---or Island or whoever. If  
14 you're going to tie this yellow in with the rest of your blue  
15 up here, would C-2...would E-21 make a difference in your  
16 mine plan, and it's in the coal seam?

17          SCOTT SEXTON: With which one?

18          BUTCH LAMBERT: E-21. They would have to connect  
19 in order for you to tie that altogether.

20          SCOTT SEXTON: This are very different wells.  
21 These actually aid mining. These frac wells that are done  
22 in advance of mining they actually help the process. As you  
23 mine through that, that will become a gob well.

24          BUTCH LAMBERT: I understand that.

25

1           SCOTT SEXTON: So...so, this is...most of...most of  
2 these in here like that you see one of them was, in fact,  
3 drilled as a drainage well or ventilation well. So, what  
4 happens in this situation---.

5           BUTCH LAMBERT: But my point is though Mr.  
6 Sexton---.

7           SCOTT SEXTON: What is the point?

8           BUTCH LAMBERT: ---and I'm trying to understand a  
9 little better here and now help me.

10          SCOTT SEXTON: I---.

11          BUTCH LAMBERT: If you're mining through E-21,  
12 that's a frac well in the coal seam, what would be the  
13 difference in mining through that well than mining through  
14 just a wellbore up at D20SH? You're still going to have to  
15 work with the gas operator to---.

16          SCOTT SEXTON: You are not going to mine through  
17 D20SH. You're going to mine around D20SH. That's...that  
18 is not going to be mined through. These...these frac wells  
19 will be mined through. If it's consistent with the mine  
20 plan. For example, I mean, if they plan to mine coal in that  
21 area they will mine through it. You will not mine through  
22 D20SH. That's a...that's a potentially...in Dickenson  
23 County I think we're saying a 60 year...a 60 year life on  
24 conventional wells is what we're looking at. We've got some

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1 that are 69 years. So, that well is going to stay there and  
2 you're going to have mine around it.

3 BUTCH LAMBERT: Do you have any other horizontal  
4 wells in your clients' coal seams that you know of?

5 SCOTT SEXTON: If so, it's only the ones that we've  
6 accidentally missed. I think there may be one, but I may be  
7 wrong.

8 BUTCH LAMBERT: Well, then I'll ask Mr. Swartz.  
9 Are you aware of any other conventional wells through their  
10 coal seam.

11 MARK SWARTZ: I think there are units that we have  
12 conventional wells that they're in, but I don't...I  
13 don't...I'm not aware of the precise question that you're  
14 asking, where the wellbore---.

15 BUTCH LAMBERT: Where it actually penetrates---.

16 MARK SWARTZ: ---because we try to locate our  
17 stuff where we have agreements with people, you know.

18 BUTCH LAMBERT: For the Board's information, I dug  
19 up a document with some help dated May the 13th, 1981. It  
20 was a committee that was formed with the oil and gas and  
21 coal...along with the coal and was termed "An Inter-industry  
22 Technical Committee Tentative Agreement on Virginia  
23 Proposed Oil and Gas Legislation." In that document under  
24 item number six, and I'll read this for the Board's

25

1 information, it says, "The coal owner, operator or lessee  
2 can object to any shallow gas well not deeper than the top  
3 of the (inaudible) or the base of the Devonian shale or 5,000  
4 which is deeper an application which is within 2500 feet of  
5 any existing well." The members on that committee at that  
6 time I think what they were trying to do in reading the entire  
7 document is they were trying to prevent the situations that  
8 we're hearing here today. The members of that committee was  
9 Joseph E. Campbell, J. J. Cox, R. L. Dodd and B. D. Hager  
10 from the Gas and Oil. The coal members were Gerald Berella,  
11 Jack Emibosh, we hadn't heard that name in a long time have  
12 we, Lou (inaudible) and Glen F. Phillips. So, I think there  
13 is some history after researching a little further and  
14 looking at what the intent of 45.1-361.12. I just offer  
15 this up for information to the Board that, you know, it's  
16 not like we're hearing from either side that this is  
17 something new that was never thought about or the intent of  
18 what this might be. But, in fact, this same issue has been  
19 considered as far back as 1981. So, I'd just offer that as  
20 some information and not as anyway to influence the Board's  
21 opinion, but something that just came to light as I was  
22 researching and preparing for this hearing.

23 SCOTT SEXTON: Did you '81 or '91? I thought---.

24 BUTCH LAMBERT: '81. It was May of '81.

25



1           SHARON PIGEON: And I'd point out that the statute  
2 that you're referencing 45.1-361.12 or whatever version it  
3 originally was enacted as was enacted in 1982.

4           BRUCE PRATHER: Mr. Chairman, could I make a  
5 comment?

6           BUTCH LAMBERT: Mr. Prather.

7           BRUCE PRATHER: It has always been my impression  
8 since I've been on this Board that when we deal with these  
9 drilling units that when we make our decision it's based  
10 strictly on the unit. These ancillary things which would  
11 be the contract between the two parties I don't think has  
12 anything to do with our decision within the confines of this  
13 unit. I mean, I can look at this and I can say that the coal  
14 that they have in the blue is not affected. So, if our main  
15 interest is strictly within that unit, I don't see where we  
16 have a...I mean, we're talking about things that are outside  
17 the unit. We're talking about agreements, just on the  
18 leasing and this, that and the other. We don't deal with  
19 that or that's my opinion.

20           BUTCH LAMBERT: Any other comments from the Board?

21           DONNIE RATLIFF: Mr. Chairman. So, the agreement  
22 from '81 basically says that if you below 5,000 feet the coal  
23 veto is invalid. Is that---?

24           BUTCH LAMBERT: I think that's my interpretation.

25

1           DONNIE RATLIFF: In summary, that's what this  
2 agreement was prepared and done for.

3           BUTCH LAMBERT: And then shortly after that  
4 agreement was signed, I think as Ms. Pigeon pointed out---.

5           DONNIE RATLIFF: And then that session is when---.

6           SHARON PIGEON: The next session of---.

7           DONNIE RATLIFF: Yeah. The next session.

8           SCOTT SEXTON: Is that an agreement or is that just  
9 a memo from a meeting?

10          BUTCH LAMBERT: This is the working paper from the  
11 Oil and Gas and Coal Inter-Industry Technical Committee.

12          SCOTT SEXTON: Was this some form by the General  
13 Assembly to study this or something?

14          SHARON PIGEON: It says, "The Proposed Oil and gas  
15 Legislation." on it. I don't know.

16          SCOTT SEXTON: If you all will tolerate it for just  
17 one second I will point out that since then you have had,  
18 obviously, the Act which has to be read as it is. Generally,  
19 I'll give you the...as far as I know the legal rules on that.  
20 The...unless it's ambiguous you cannot look at legislative  
21 history. That's not legislative history if it's some  
22 committee that doesn't deal with the actual enactment of the  
23 legislation. Since then there was the gas act that was  
24 enacted, which again contains this section and authorized

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1 this body to establish regulations and rules and orders,  
2 none of which have dealt with this issue to my knowledge.  
3 So, the...I would suggest that to reach back to something  
4 from 1981 when, in fact, this Board is empowered to give  
5 public notice, deal with issues by regulation, field rules  
6 and that sort of thing would be...it would be quite a stretch  
7 to do that. In this case, if that's what...if that's what  
8 the gas industry wants to do, if they want to have a  
9 discussion with members of the coal industry and talk about  
10 what the coal veto means and talk about that in front of you  
11 all and propose a regulation, that's exactly what should  
12 happen. But it shouldn't...in my opinion, it shouldn't  
13 just be by a fee act. Well, that's that CNX wants the answer  
14 to be today and then they may not want it to be that way when  
15 it's Island Creek and they're trying to block another  
16 operator. So, there's certainly a feeling or whipsaw, make  
17 it up as you go, when you're sitting in this sit. So, the  
18 solution to that is to follow the specifications in the Code  
19 and establish regulations. If they are correct, then you  
20 all will have no problem granting that regulation and then  
21 that will be a rule that everyone will know about and they  
22 can follow it and it will not be an arbitrator rule that is  
23 merely imposed upon some and not on others. That's what I  
24 would suggest is the proper way to accomplish that result.

1 Nobody is going to get harmed. CNX can certainly come back  
2 and amend after they establish either by law or regulation  
3 the type of rules that they are wanting to establish.

4 BUTCH LAMBERT: Mr. Swartz, anything further?

5 MARK SWARTZ: I heard Mr. Sexton say just a moment  
6 ago that my story changes depending upon the result that I  
7 would like to obtain. I would just state, and you can sort  
8 of harking back since I'm here regularly, my clients and I  
9 try to have one consistent view of what we think the law is  
10 and we apply that when we come before you. My story does  
11 not change. It was what it is. I mean, I have made  
12 objections on behalf of coal operators in the past and I have  
13 made those objections when the wells have penetrated my  
14 client's coal. I have not made those objections when wells  
15 do not penetrate my client's coal because I have never  
16 believed that this statute was intended to protect people  
17 when you're looking at a map and it looks like this. The  
18 other thing that Mr. Sexton said a while ago that I do not  
19 believe I said today. I did not say and I do not believe  
20 that the only time a coal owner can make a 2500 foot objection  
21 is at a pooling hearing. I didn't say it. I said I think  
22 a coal operator can make a 2500 foot objection at a hearing  
23 to create a unit and at a permitting hearing. I did not talk  
24 in terms of pooling. With regard to the example that he gave

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1 with GeoMet, those were all Oakwood units. You know, you  
2 weren't holding the hearings to create units. Those units  
3 were already created. Island Creek had coal leases under  
4 those units. So, that's all. I just wanted to make sure  
5 I responded to those three items.

6 BUTCH LAMBERT: Any questions or comments from the  
7 Board?

8 (No audible response.)

9 BUTCH LAMBERT: Do I have a motion on the decision  
10 of the Division Director Mr. Rick Cooper?

11 BILL HARRIS: Mr. Chairman, before we entertain a  
12 motion, can we hear from Ms. Pigeon about the...her ideas  
13 or take on all of this? I know that's not very professional,  
14 but---.

15 SHARON PIGEON: Well, I do have a couple of  
16 thoughts. Both of these gentlemen have obviously got good  
17 arguments. But, again, the decision was made on the basis  
18 of the waiver of having not made the objection at the first  
19 opportunity. I would just point out, number one, that the  
20 statute that Mr. Sexton is relying on 45.1-361.12 is located  
21 in Article I of the Gas and Oil Act. Those are the general  
22 provisions that apply to all of the proceedings whether it's  
23 Board proceedings or permit application proceedings.  
24 Article II then is specifically about Board proceedings.

25

1 Article III then is specifically about the Division and the  
2 permit application proceeding. Article IV is about  
3 replacement of water by coalbed methane well operators.  
4 So, by it's general placement in the General Article I  
5 provisions it seems unquestionably meant to apply to both  
6 pooling and permitting hearings. I think that there's no  
7 question that that's what the wording saying so that at your  
8 first opportunity you are to bring whatever objection you  
9 might have. As far as making up new rules about waiver,  
10 waiver Common Law concept it's part of the law. The Common  
11 Law was incorporated into the Code exception 1-200 very  
12 specifically. The common law principles are part of the  
13 law. That original enactment was 1919. So, maybe Mr.  
14 Sexton hasn't had a chance to look at it yet, but it is there.  
15 As far as the definition of a coal owner, which is good, I  
16 like to look back at the definition, a coal owner means "Any  
17 person who owns, leases, mines and produces or has the right  
18 to mine and produce a coal seam." Obviously, Mr. Sexton's  
19 client falls into that category. That is again addressed  
20 specifically in the statute. But we also have a definition  
21 for coal seam. Coal seam means "Any strata of coal 20 inches  
22 or more in thickness unless a strata of less thickness is  
23 being commercially worked" excuse me while I wipe my nose,  
24 "or can in the judgment of the Department foreseeably be

1 commercially worked and will require protection if wells are  
2 drilled through it." That definition seems to work back  
3 into Mr. Swartz's interpretation. Both gentlemen have good  
4 arguments for their position. So, I think Mr.  
5 Cooper...Division Director Cooper's decision based  
6 (inaudible) is well founded.

7 BUTCH LAMBERT: Anything further, Mr. Harris?

8 BILL HARRIS: I'm sorry?

9 BUTCH LAMBERT: Anything further?

10 BILL HARRIS: No. I was just confirming...

11 (Bill Harris and Bruce Prather confer among  
12 themselves.)

13 BUTCH LAMBERT: Okay. Any further questions or  
14 comments?

15 BILL HARRIS: No. Nothing further.

16 BUTCH LAMBERT: Okay. Again, I'll call for a  
17 motion to either accept or reject the decision of the Gas  
18 and Oil Director Mr. Cooper.

19 BRUCE PRATHER: Mr. Chairman, could will be a little  
20 more specific on where this decision comes from?

21 BUTCH LAMBERT: That comes from the Division  
22 Director Rick Cooper.

23 BRUCE PRATHER: Right. But, I mean, if we've got  
24 a document here that I think should...otherwise you'll

25

1 probably be reading about a page and a half.

2 BUTCH LAMBERT: I'm not sure I understand the  
3 question.

4 BRUCE PRATHER: This.

5 (Bruce Prather and Donnie Ratliff confer among  
6 themselves.)

7 BRUCE PRATHER: I'll make the motion that we confirm  
8 his decision as outlined in whatever this argument is.

9 DONNIE RATLIFF: I'll second that.

10 BUTCH LAMBERT: I have a motion and a second to  
11 affirm the decision of the Gas and Oil Director Rick Cooper.  
12 Any further discussion?

13 (No audible response.)

14 BUTCH LAMBERT: All in favor, signify by saying yes.

15 (All members signify by saying yes.)

16 BUTCH LAMBERT: Opposed, no.

17 (No audible response.)

18 BUTCH LAMBERT: Thank you, gentlemen. We're going  
19 to take about a 10 minute break.

20 (Break.)

21 BUTCH LAMBERT: At this time, we're going to call  
22 docket item number three, which is a petition from EQT  
23 Production Company on behalf of Cheryl Fields, Teresa  
24 Campbell and Range Resources-Pine Mountain, Inc. for

25



1 disbursement of funds from escrow regarding Tract 4, Unit  
2 702835, docket number VGOB-98-0324-0642-03. All parties  
3 wishing to testify, please come forward.

4 JIM KAISER: Mr. Chairman, Jim Kaiser and Rita  
5 Barrett on behalf of EQT Production.

6 SHEA COOK: Shea Cook on behalf of Cheryl Fields and  
7 Teresa Campbell.

8 JIM KAISER: We...Mr. Chairman, we had a discussion  
9 with Mr. Cook earlier this morning---.

10 BUTCH LAMBERT: Mr. Kaiser, is Ms. Barrett going to  
11 testify?

12 JIM KAISER: Yeah, but not right away---.

13 BUTCH LAMBERT: We need to---.

14 JIM KAISER: ---because we're going to continue  
15 this one.

16 BUTCH LAMBERT: Oh, okay. Okay. I'm sorry.

17 RITA BARRETT: You're anxious to hear me talk.

18 JIM KAISER: He's ready to go. I like that.

19 RITA BARRETT: I do too.

20 JIM KAISER: Mr. Cook informed us...asked us if we  
21 would continue this one earlier this morning in that Ms.  
22 Fields and Ms. Campbell are going to be in his office later  
23 today to talk to him about not only the disbursement from  
24 this well but from some other wells that they own an interest

25

1 in and assume to obtain his representation. So, you know,  
2 we have to do these on a well by well basis. We can't...I'm  
3 assuming we can't put four wells on one application. So,  
4 we don't have any problem with that. The question is do  
5 we...we called and got a list of the wells that we're going  
6 to file petitions for disbursement on next month and none  
7 of their other wells are on that. But I don't know if that's  
8 relevant. So, I guess you're okay with just continuing it  
9 until April?

10 SHEA COOK: Yeah.

11 JIM KAISER: Okay. We'd just ask that that one be  
12 continued until April.

13 BUTCH LAMBERT: Continue...that docket item will be  
14 continued until April. Okay. We're calling petition on  
15 item number four. A petition from EQT Production Company  
16 on behalf of Troy W. Williams, II, William Grant Williams  
17 and Range Resources-Pine Mountain, Inc. for disbursement of  
18 funds from escrow regarding Tract 9, Unit VC-536244, docket  
19 number VGOB-09-1215-2648-01. All parties wishing to  
20 testify, please come forward.

21 JIM KAISER: Mr. Chairman, Jim Kaiser and Rita  
22 Barrett on behalf of EQT Production.

23 SHEA COOK: Shea Cook on behalf of Troy W. Williams,  
24 II and William Grant Williams.

25



1                   A.       This would be Tract 9.

2                   Q.       Okay.    And is this a partial or full  
3 disbursement?

4                   A.       This is a partial.

5                   Q.       Okay.    And what is the reason for  
6 disbursement?

7                   A.       We received a split agreement...a letter  
8 from Range Resources regarding the agreement.

9                   Q.       And have the figures from the bank or the  
10 escrow agent and EQT's figures been reconciled?

11                  A.       They have.

12                  Q.       And as of what date are the...is the amount  
13 of money to disburse calculated?

14                  A.       December the 20th of last year.

15                  Q.       Okay.    And what percent should the Board  
16 use as their guideline for disbursement, the percentage of  
17 escrowed funds, that percentage that is in the next to the  
18 last column on the right side of the spreadsheet?

19                  A.       Yes.

20                  Q.       And what percentage should be used for the  
21 disbursement?

22                  A.       0.02699055%.

23                  Q.       And who should receive disbursements of  
24 those percentages?

25

1           A.       Troy W. Williams and William G. Williams.

2           Q.       And have you provided the Board with  
3 Exhibits E and EE to reflect the facts of this disbursement?

4           A.       Yes.

5           Q.       And would you ask the Board in the order  
6 should they approve this disbursement to require EQT  
7 Production to pay these owners directly going forward?

8           A.       Yes.

9           JIM KAISER: Nothing further at this time, Mr.  
10 Chairman.

11           BUTCH LAMBERT: Any questions from the Board?

12           (No audible response.)

13           BUTCH LAMBERT: Ms. Barrett, have you seen the split  
14 agreement?

15           RITA BARRETT: Yes, I have. There's a copy of it  
16 in the application also.

17           SHEA COOK: I have a question.

18           BUTCH LAMBERT: We'll get to you in just a minute.  
19 Anything further, Mr. Kaiser?

20           JIM KAISER: No, sir.

21

22                           CROSS EXAMINATION

23           QUESTIONS BY MR. COOK:

24           Q.       Ma'am, what was the date of the split  
25

1 agreement?

2 A. The date of the letter is January the 13th,  
3 2012.

4 Q. What is the percentage of the split  
5 between...and you make...you use the term split agreement.  
6 A split of what between whom?

7 A. This appears to be a permanent release of  
8 the claim to the CBM royalty.

9 Q. Okay. So, this is actually a release by  
10 Range Resources of a 100% of any punitive interest that they  
11 might have in the CBM by virtue of the statute?

12 A. Yes.

13 SHEA COOK: Okay. That's all the questions I have.

14 BUTCH LAMBERT: Any questions from the Board?

15 BILL HARRIS: Mr. Chairman, let me just a comment  
16 in that regard. You know, I've asked before about sometimes  
17 you read the split agreements and it's not clear. Sometimes  
18 it will say 50/50 and it's clear. But sometimes it will say  
19 25/75 and we just have to assume that the company or the...  
20 well, I will say the company is keeping 25% and giving 75%.  
21 I would love to see these a little clearer. I would like  
22 to see, for instance, a 100% stated somewhere, a percentage.

23 JIM KAISER: I mean, it's reflected right on the  
24 spreadsheet, Mr. Harris.

25

1           BILL HARRIS: Well, I understand that. But I'm  
2 saying the letter---.

3           JIM KAISER: And it is...we've got 75/25 coming up  
4 and it's right on the spreadsheet too.

5           BILL HARRIS: Well, what I'm saying is the letter  
6 that actually says, you know, we're splitting...that's  
7 directed to the folks, I would just love to see---.

8           JIM KAISER: The letter say that. They say that.  
9 All right. We'll show you one here in just a minute.

10          BILL HARRIS: ---something that says a 100%  
11 or...okay. Okay.

12          SHEA COOK: Sir, can I respond to that?

13          BILL HARRIS: Yeah.

14          BUTCH LAMBERT: Mr.---.

15          SHEA COOK: I think that that's a good point. It's  
16 also confusing to use, in my view, the terminology split  
17 agreement when what is happening is that Range Resources is  
18 waiving any further claim or interest in something that the  
19 state law says that they had leased or conflicted in. You  
20 know, when I hear the language split agreement, I think of  
21 some division between two separate parties of something.  
22 That's not happening in this case. It's not happening in  
23 a number of the cases that we have here.

24          JIM KAISER: Well, let me respond to that. I should  
25

1 have used split agreement. I should have said in this case  
2 a permanent release. There's two situations, either a  
3 permanent release or a split agreement. We'll use the right  
4 terminology going forward. The letters reflect the correct  
5 factual situation. So, it's not a big deal.

6 BRUCE PRATHER: It's a release of Range  
7 Resources'---.

8 JIM KAISER: Interest.

9 BRUCE PRATHER: ---prior interest. I mean, they  
10 no longer have an interest.

11 JIM KAISER: Some they're 50/50 and some are 75/25  
12 and some are permanent. It depends on the situation.

13 SHARON PIGEON: Well, just to comment on that just  
14 a little further. The statute provides the three ways to  
15 pay out of escrow. One of those ways is by agreement.  
16 Maybe we shouldn't put split or maybe we should. But it's  
17 an agreement and that's what this is too.

18 JIM KAISER: Right.

19 SHARON PIGEON: And that's what the statute calls  
20 for.

21 JIM KAISER: Thank you.

22 BUTCH LAMBERT: Any further questions from the  
23 Board?

24 (No audible response.)

25



1           BUTCH LAMBERT: Anything further, Mr. Cook?  
2           SHEA COOK: No.  
3           BUTCH LAMBERT: Anything further, Mr. Kaiser?  
4           JIM KAISER: We'd ask that the application be  
5 approved as submitted.  
6           BUTCH LAMBERT: Do I have a motion?  
7           BRUCE PRATHER: Motion to approve.  
8           BILL HARRIS: Second.  
9           BUTCH LAMBERT: I have a motion and a second. Any  
10 further discussion?  
11           (No audible response.)  
12           BUTCH LAMBERT: All in favor, signify by saying yes.  
13           (All members signify by saying yes, but Donnie  
14 Ratliff.)  
15           BUTCH LAMBERT: Opposed, no.  
16           DONNIE RATLIFF: I'll abstain, Mr. Chairman.  
17           BUTCH LAMBERT: One abstention Mr. Ratliff. We're  
18 calling docket item number five. A petition from EQT  
19 Production Company on behalf of Don W. Ashworth and Cynthia  
20 L. Ashworth, Graham K. Tillier and Betty Tillier, Dr. Halbert  
21 E. Ashworth and Peggy Ashworth and Range Resources-Pine  
22 Mountain, Inc. for disbursement of funds from escrow  
23 regarding Tracts 1, 3 and 4, Unit 501842, docket number  
24 VGOB-07-0417-1919-01. All parties wishing to testify,

1 please come forward.

2 JIM KAISER: Jim Kaiser and Rita Barrett on behalf  
3 of EQT Production.

4 BUTCH LAMBERT: You may proceed, Mr. Kaiser.

5

6

7

8

9

10

11 RITA BARRETT

12 having been duly sworn, was examined and testified as  
13 follows:

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. KAISER:

16 Q. Ms. Barrett, this is a...are you familiar  
17 with this disbursement request?

18 A. I am.

19 Q. Have all parties been notified as required  
20 by statute?

21 A. Yes.

22 Q. And what unit are we disbursing on?

23 A. We are disbursement...do you want to know  
24 the tract number or the unit?

25

1 Q. No, the unit number.  
2 A. The unit number VC-501842.  
3 Q. And what tracts are we disbursing from?  
4 A. Tracts 1, 3 and 4.  
5 Q. Is this a partial or full disbursement?  
6 A. This is a permanent release of CBM royalty.  
7 Q. No, no, no, no. Is it a partial or a full  
8 disbursement---?  
9 A. Oh, I'm sorry. It is a...it's a partial.  
10 Q. Okay. And what's the reason for the  
11 disbursement?  
12 A. We received a permanent release. A CBM  
13 royalty letter from Range Resources.  
14 Q. And have the figures been reconciled  
15 between the escrow agent and EQT?  
16 A. Yes.  
17 Q. And as of what date were the figures listed  
18 on the spreadsheet calculated?  
19 A. December of 2011.  
20 Q. And should...again, should the Board use  
21 the percentage that's shown in the next to the last column  
22 on the right hand side of the spreadsheet for purposes of  
23 disbursement?  
24 A. Yes.

1 Q. And does the spreadsheet accurately reflect  
2 who should receive disburses and at what percentage?

3 A. It does.

4 Q. And have you provided the Board with  
5 Exhibits E and EE to reflect the facts of this disbursement?

6 A. Yes.

7 Q. And would you ask that any order by the Board  
8 provide that EQT pay royalties directly to these parties  
9 going forward?

10 A. Yes.

11 JIM KAISER: Nothing further at this time, Mr.  
12 Chairman.

13 BUTCH LAMBERT: Any questions from the Board?

14 (No audible response.)

15 BUTCH LAMBERT: Ms. Barrett, would you please read  
16 in the percentages from those folks that will be receiving  
17 it from your spreadsheet?

18 RITA BARRETT: Sure. Sure. Graham Kennedy Tillier  
19 and Betty Tillier 12.4518%, Don and Cindy Ashworth 6.2259%,  
20 Halbert and Peggy Ashworth 6.2259%, Graham Kennedy Tillier  
21 and Betty Tillier, this is Tract 3, 1.5367%, Don and Cindy  
22 Ashworth 0.7683%, Halbert and Peggy Ashworth 0.7683%. On  
23 Tract 4, Graham Kennedy Tillier and Betty Tillier 5.6503%, Don  
24 and Cindy Ashworth 2.8252%, Halbert and Peggy Ashworth

25

1 2.8252%.

2 BUTCH LAMBERT: And this does not close out the  
3 unit?

4 RITA BARRETT: No, it does not.

5 BUTCH LAMBERT: Any further questions from the  
6 Board?

7 (No audible response.)

8 BUTCH LAMBERT: Anything further, Mr. Kaiser?

9 JIM KAISER: We'd ask that the application be  
10 approved as submitted, Mr. Chairman.

11 BUTCH LAMBERT: Do I have a motion?

12 BRUCE PRATHER: Motion to approve.

13 BILL HARRIS: Second.

14 BRUCE PRATHER: I have a motion and a second. Any  
15 further discussion?

16 (No audible response.)

17 BRUCE PRATHER: All in favor, signify by saying yes.

18 All in favor, signify by saying yes.

19 (All members signify by saying yes, but Donnie  
20 Ratliff.)

21 BUTCH LAMBERT: Opposed, no.

22 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

23 BUTCH LAMBERT: One abstention Mr. Ratliff. We're  
24 calling docket item number six. A petition from EQT

25

1 Production Company on behalf of Hurley Ratliff (Life Estate)  
2 and Range Resources-Pine Mountain, Inc. for disbursement of  
3 funds from escrow regarding Tract 2, Unit VC-537307, docket  
4 number VGOB-09-1020-2617-10. All parties wishing to  
5 testify, please come forward.

6 JIM KAISER: Jim Kaiser and Rita Barrett again on  
7 behalf of Equitable Production.

8 SHEA COOK: Shea Cook on behalf of Hurley Ratliff.

9 BUTCH LAMBERT: You may proceed, Mr. Kaiser.

10 JIM KAISER: I don't have a letter in my file of you  
11 representing Hurley.

12 SHEA COOK: Okay. I'm telling you that I do.

13 JIM KAISER: Okay.

14

15

16 RITA BARRETT

17 having been duly sworn, was examined and testified as  
18 follows:

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. KAISER:

21 Q. Are you familiar with the disbursement  
22 request here, Ms. Barrett?

23 A. Yes.

24 Q. Have all parties been notified as required

25

1 by statute?

2 A. Yes.

3 Q. And what unit are we disbursing out of here,  
4 what well?

5 A. Well VC-537307.

6 Q. And what tract or tracts?

7 A. Tract 2.

8 Q. And the reason for...wait a minute, is this  
9 a partial or full disbursement?

10 A. This is a full disbursement, a 100%.

11 Q. Okay. And this will close out the escrow  
12 account for this unit?

13 A. It will.

14 Q. Okay. That's good. The reason for the  
15 disbursement?

16 A. We received a letter from Range Resources  
17 for permanent release of CBM royalty on this well.

18 Q. And have the figures been reconciled  
19 between the escrow agent and EQT?

20 A. Yes.

21 Q. And as to what date are the figures  
22 calculated based upon our spreadsheet that we filed with the  
23 petition?

24 A. November the 11th, 2011.

25

1 Q. Okay. And what percentage should  
2 be...should be used for disbursement?

3 A. 100%.

4 Q. And who should receive disbursements of  
5 that percentage?

6 A. Hurley R. Ratliff.

7 Q. And have you provided the Board with  
8 Exhibits E and EE to reflect the facts of this disbursement?

9 A. Yes.

10 Q. And would you ask that any order executed  
11 by the Board require that EQT pay Hurley Ratliff directly  
12 going forward?

13 A. Yes.

14 JIM KAISER: And then, again, we've  
15 disbursed...for Mr. Ratliff before. I mean, the Board will  
16 probably recall this. I went through the whole thing about  
17 royalty and the life estate and the open mines doctrine. In  
18 this particular case, the lease, which we will go ahead and  
19 enter into evidence here, the remainderment, who I assume  
20 are his kids, have agreed for him to receive not only the  
21 delay rental, which normally would be all he would be  
22 entitled to as a life tenant but also the royalty. So,  
23 that's the case here. Nothing further.

24 BUTCH LAMBERT: Anything further the Board? Any  
25



1 questions?

2 BILL HARRIS: Just a comment.

3 BUTCH LAMBERT: Mr. Harris.

4 BILL HARRIS: I think Ms. Barrett gave the date as  
5 11/11/11.

6 RITA BARRETT: Yes.

7 BILL HARRIS: All right. We have 11/20/11. Is  
8 there...I guess I'm looking at the right one.

9 RITA BARRETT: Oh. There's...I apologize. Yeah,  
10 it looks like 11/20/11. There's not a...there's not a---.

11 BILL HARRIS: Oh, okay. I'm sorry. It's---.

12 JIM KAISER: I'm going to assume that means probably  
13 11/30/2011.

14 RITA BARRETT: Correct. It can't be effective  
15 11/2000.

16 JIM KAISER: Wait a minute. I misread the---.

17 RITA BARRETT: Yeah. Yeah.

18 BILL HARRIS: Okay. So---.

19 BUTCH LAMBERT: It was in the month of November of  
20 2011.

21 JIM KAISER: I think that was meant to reflect  
22 November of 2011.

23 BILL HARRIS: November of 2011. I misread the---.

24 RITA BARRETT: That's okay.

25

1           BILL HARRIS: Okay. I'm sorry.

2           BUTCH LAMBERT: Any other questions from the Board?

3           (No audible response.)

4           BUTCH LAMBERT: Mr. Cook.

5           SHEA COOK: No questions.

6           SHARON PIGEON: Mr. Cook, when did Mr. Ratliff

7 retain you on that?

8           SHEA COOK: I spoke with him yesterday. He wanted

9 me to be here on his behalf. Actually, the whole process

10 of distribution or waiver by Range probably was initiated

11 after they received my letter enquiring as to the status of

12 leases and the well production last year.

13           BUTCH LAMBERT: Anything further, Mr. Kaiser?

14           JIM KAISER: We'd ask that the application be

15 approved as submitted.

16           BUTCH LAMBERT: Do I have a motion?

17           BRUCE PRATHER: Motion to approve.

18           BILL HARRIS: Second.

19           BUTCH LAMBERT: I have a motion and a second. Any

20 further discussion?

21           (No audible response.)

22           BUTCH LAMBERT: All in favor, signify by saying yes.

23           (All members signify by saying yes, but Donnie

24 Ratliff.)



1                    BUTCH LAMBERT: You may proceed, Mr. Kaiser.

2

3                    RITA BARRETT

4                    having been duly sworn, was examined and testified as  
5                    follows:

6                    DIRECT EXAMINATION

7                    QUESTIONS BY MR. KAISER:

8                    Q.        Ms. Barrett, are you familiar with this  
9                    request for disbursement?

10                  A.        I am.

11                  Q.        Have all parties been notified as required  
12                  by statute?

13                  A.        Yes.

14                  Q.        And what unit is this disbursement for?

15                  A.        This is for VC-536087.

16                  Q.        And what tract?

17                  A.        Tracts 3...3 and 4.

18                  Q.        3     and     4.        And is this a partial  
19                  disbursement?

20                  DIANE DAVIS: We received a revision after I mailed  
21                  out your package.

22                  RICK COOPER: (Inaudible).

23                  JIM KAISER: It's out of Dickenson County.    It's a  
24                  partial.

25



1 16.622253%. Tract 4 Charles B. Counts 12.565632% and Range  
2 Resources 4.188544%. Range Resources 1.047466%---.

3 Q. You forgot Cheri Lyn Simoneko.

4 A. Oh, I'm sorry. I apologize. Cheri Lyn  
5 Simo...how do you pronounce that?

6 Q. Simoneko.

7 A. Simoneko. 3.142397%. Also in Tract 4,  
8 Nicole and Daniel Connolly 3.142397%, Range Resources-Pine  
9 Mountain 1.047466%, Connie Godfrey and Bill Godfrey  
10 6.282816% and Range Resources 2.094272%.

11 Q. And, again, those percentages that you just  
12 read reflect a 75/25 split between...on Tract 3 between Mr.  
13 Counts and Range and then one Tract 4 between all of the  
14 undivided interest owners and Range, is that correct?

15 A. Yes. The individuals...the individual  
16 letters, yes.

17 Q. Okay. And have you provided the Board with  
18 Exhibits E and EE to reflect the facts of this disbursement?

19 A. Yes.

20 Q. And would you ask that any order they enter  
21 regarding this disbursement require EQT to pay royalty  
22 directly to these owners going forward?

23 A. Yes.

24 JIM KAISER: Nothing further at this time, Mr.

25

1 Chairman.

2 BUTCH LAMBERT: Any questions from the Board?

3 (No audible response.)

4 BUTCH LAMBERT: Anything further, Mr. Swartz?

5 JIM KAISER: We'd ask that application be approved  
6 as submitted.

7 BUTCH LAMBERT: Do I have a motion?

8 BILL HARRIS: Let me---.

9 BRUCE PRATHER: Motion to approve.

10 BILL HARRIS: Okay, I'm sorry.

11 BUTCH LAMBERT: Mr. Harris, do you have a question?

12 BILL HARRIS: Yeah. Mr. Cooper gave us a handout.  
13 I'm...can we just get an explanation as to why we have...why  
14 we were given another front sheet?

15 RICK COOPER: That came in after we had already put  
16 it on the docket and had already come...that came in later.

17 BILL HARRIS: Is there a difference between this and  
18 what we have?

19 DIANE DAVIS: There must have been. I'm not sure  
20 what it was...oh, I know. They failed to put that EQT  
21 Production Company on behalf of. That was the only  
22 difference in it.

23 JIM KAISER: So, it was a typo?

24 DIANE DAVIS: Yeah. At the very beginning. May I

25

1 ask a question? Does this close the account?

2 JIM KAISER: I don't think so.

3 RITA BARRETT: I don't think so.

4 SHARON PIGEON: She testified that it was a partial.

5 JIM KAISER: Right.

6 DIANE DAVIS: But I don't have an E in this petition.

7 JIM KAISER: You don't?

8 DIANE DAVIS: No.

9 RITA BARRETT: I don't either, Diane.

10 DIANE DAVIS: In looking at my spreadsheet that I  
11 did, Mr. Chairman, it appears that only Tract 3 and Tract  
12 4 were in escrow.

13 JIM KAISER: Maybe it does. So, it does close---.

14 RITA BARRETT: It does close the account.

15 JIM KAISER: If you don't have an E it closes it.

16 RITA BARRETT: Well, the exhibits also there have  
17 been prior disbursements on this well. So, it does close  
18 the account.

19 DIANE DAVIS: Okay.

20 SHARON PIGEON: Even better.

21 JIM KAISER: Was 2...Tract 2 disbursed?

22 DIANE DAVIS: Yes.

23 RITA BARRETT: Yelp.

24 JIM KAISER: Then it closes.

25



1                   RITA BARRETT: Yeah.

2                   JIM KAISER: Let me go back.

3

4                               DIRECT EXAMINATION RESUMES

5                   QUESTIONS BY MR. KAISER:

6                   Q.       Ms. Barrett, as we stated earlier on our  
7 testimony that this was a partial disbursement, we have  
8 discovered that there is not an E and Tract 2 has already  
9 been disbursed. So, would this now actually be a full  
10 disbursement of the escrow and would the account for this  
11 well be able to be closed at this point?

12                   A.       Yes.

13                   Q.       Thank you. So, the application correctly  
14 reflects the status of the escrow?

15                   A.       Okay.

16                   BUTCH LAMBERT: Any other questions from the  
17 Board?

18                               (No audible response.)

19                   BUTCH LAMBERT: Do I have a motion?

20                   BRUCE PRATHER: Motion to approve.

21                   BILL HARRIS: Second.

22                   BUTCH LAMBERT: I have a motion and a second. Any  
23 further discussion?

24                               (No audible response.)

25

1            BUTCH LAMBERT: All in favor, signify by saying yes.  
2            (All members signify by saying yes, but Donnie  
3 Ratliff.)

4            BUTCH LAMBERT: Opposed, no.

5            DONNIE RATLIFF: I'll abstain, Mr. Chairman.

6            BUTCH LAMBERT: One abstention Mr. Ratliff. We're  
7 calling docket item number eight. A petition from EQT  
8 Production Company on behalf of Troy Williams, II, William  
9 Grant Williams and Range Resources-Pine Mountain, Inc. for  
10 disbursement of funds from escrow regarding Tract 2, Unit  
11 VC-3356. This will be docket number VGOB-98-0915-0683-01.  
12 All parties wishing to testify, please come forward.

13           JIM KAISER: Jim Kaiser and Rita Barrett on behalf  
14 of EQT Production.

15           SHEA COOK: Shea Cook on behalf of Troy W. Williams  
16 and William Grant Williams.

17           BUTCH LAMBERT: You may proceed, Mr. Kaiser.

18

19                            RITA BARRETT

20 having been duly sworn, was examined and testified as  
21 follows:

22                            DIRECT EXAMINATION

23           QUESTIONS BY MR. KAISER:

24                            Q.        Ms. Barrett, are you familiar with this

25

1 disbursement request?

2 A. I am.

3 Q. Have all parties been notified as required  
4 by statute?

5 A. Yes.

6 Q. We're disbursing as to the unit created for  
7 well VC-3356?

8 A. That's correct.

9 Q. What tract?

10 A. Tract 2.

11 Q. And is this a partial or full disbursement?

12 A. This is a partial.

13 Q. Okay. And the reason for the disbursement?

14 A. We received a letter from Range Resources  
15 regarding a 100% release of CBM royalty...the claim to the  
16 CBM royalty.

17 Q. And has EQT reconciled their figures with  
18 the escrow agents?

19 A. Yes, we have.

20 Q. And the amount to be disbursed was  
21 calculated as of what date according to our spreadsheet?

22 A. December 2011.

23 Q. And what percentage should be used by the  
24 Board for disbursement purposes?

25

1                   A.       100%.

2                   Q.       And what is the percentage of escrowed funds  
3 that each party is entitled to? Could you read that into  
4 the record?

5                   A.       Troy W. Williams 48.57247438% and William  
6 G. Williams 48.57247438%.

7                   Q.       Have you provided the Board with Exhibit E  
8 and EE to reflect the facts of this disbursement?

9                   A.       Yes.

10                  Q.       Would you ask that any order entered by the  
11 Board direct EQT Production to pay these owners their  
12 royalty directly going forward?

13                  A.       Yes.

14                  JIM KAISER: Nothing further at this time, Mr.  
15 Chairman.

16                  BUTCH LAMBERT: Any questions from the Board?

17                         (No audible response.)

18                  BUTCH LAMBERT: Mr. Cook.

19                  SHEA COOK: No questions.

20                  BUTCH LAMBERT: Anything further, Mr. Kaiser?

21                  JIM KAISER: We'd ask that the application be  
22 approved as submitted.

23                  BUTCH LAMBERT: Do I have a motion?

24                  BRUCE PRATHER: Motion to approve.

25

1                   BILL HARRIS: Second.

2                   BRUCE PRATHER: I have a motion and a second. Any  
3 further discussion?

4                   (No audible response.)

5                   BRUCE PRATHER: All in favor, signify by saying yes.

6                   (All members signify by saying yes, but Donnie  
7 Ratliff.)

8                   BUTCH LAMBERT: Opposed, no.

9                   DONNIE RATLIFF: I'll abstain, Mr. Chairman.

10                  BUTCH LAMBERT: One abstention Mr. Ratliff. We're  
11 calling docket item number nine. A petition from EQT  
12 Production Company on behalf of George D. and Carol R. Smith  
13 and Range Resources-Pine Mountain, Inc. for disbursement of  
14 funds from escrow regarding Tract 2, Unit VC-504509, docket  
15 number VGOB-01-0120-0986-03. All parties wishing to  
16 testify, please come forward.

17                  JIM KAISER: Jim Kaiser and Rita Barrett on behalf  
18 of EQT Production.

19                  SHEA COOK: Shea Cook on behalf of George and Carol  
20 Smith.

21                  BUTCH LAMBERT: You may proceed, Mr. Kaiser.

22

23                                   RITA BARRETT

24 having been duly sworn, was examined and testified as

25

1 follows:

2 DIRECT EXAMINATION

3 QUESTIONS BY MR. KAISER:

4 Q. Ms. Barrett, are you familiar with this  
5 disbursement request?

6 A. I am.

7 Q. Have all parties been notified?

8 A. They have.

9 Q. And is this a disbursement for well  
10 VC-504509?

11 A. Correct.

12 Q. And what tract?

13 A. Tract 2.

14 Q. Is it partial or full?

15 A. This is partial.

16 Q. A reason for disbursement?

17 A. We received a letter from Range Resources  
18 for a permanent release of CBM royalty.

19 Q. So...and the spreadsheet, the amount of the  
20 disbursement was calculated as of what date?

21 A. December 2011.

22 Q. And what percentage of escrow should be used  
23 for disbursement purposes and who should receive that?

24 A. George D. and Carol R. Smith Tract 2  
25

1 91.198044%.

2 Q. And have you provided the Board with  
3 Exhibits E and EE to reflect the facts of this disbursement?

4 A. We have.

5 Q. And would you ask the Board to provide in  
6 any order that any royalty due these parties going forward  
7 be paid directly to them?

8 A. Yes.

9 JIM KAISER: Nothing further at this time, Mr.  
10 Chairman.

11 BUTCH LAMBERT: Any questions from the Board?

12 (No audible response.)

13 SHEA COOK: No questions.

14 BUTCH LAMBERT: Anything further, Mr. Kaiser?

15 JIM KAISER: No. We'd ask that the application be  
16 approved as submitted.

17 BUTCH LAMBERT: Do I have a motion?

18 BRUCE PRATHER: Motion to approve.

19 BILL HARRIS: Second.

20 BUTCH LAMBERT: I have a motion and a second. Any  
21 further discussion?

22 (No audible response.)

23 BUTCH LAMBERT: All in favor, signify by saying yes.

24 (All members signify by saying yes, but Donnie  
25

1 Ratliff.)

2 BUTCH LAMBERT: Opposed, no.

3 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

4 BUTCH LAMBERT: One abstention Mr. Ratliff. We're  
5 calling docket item number 10. A petition from EQT  
6 Production Company on behalf of George D. and Carol R. Smith  
7 and Range Resources-Pine Mountain, Inc. for disbursement of  
8 funds from escrow regarding Tracts 5 and 9, Unit VC-503042,  
9 docket number VGOB-04-1214-1373-04. All parties wishing  
10 to testify please come forward.

11 JIM KAISER: Jim Kaiser and Rita Barrett on behalf  
12 of EQT Production.

13 SHEA COOK: Shea Cook on behalf of George and Carol  
14 Smith.

15 BUTCH LAMBERT: You may proceed, Mr. Kaiser.

16 RITA BARRETT

17 having been duly sworn, was examined and testified as  
18 follows:

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. KAISER:

21 Q. Ms. Barrett, have you reviewed this  
22 disbursement request?

23 A. I have.

24 Q. And have all parties been notified?

25



1 A. They have.

2 Q. And we're disbursing funds in the escrow for  
3 unit for well number VC-503042?

4 A. That's correct.

5 Q. And what tract?

6 A. Tract 5 and Tract 9.

7 Q. There's two tracts. Okay. Is this a  
8 partial disbursement?

9 A. Yes.

10 Q. Okay. So, we can't close out the escrow  
11 account. The reason for this disbursement?

12 A. Again, we received a letter from Range  
13 Resources regarding a permanent release of their claim to  
14 the CBM royalties.

15 Q. And we've got something a little trickier  
16 here. The spreadsheet that we provided for this well  
17 is...reflects the amount of money as of December 2011,  
18 correct?

19 A. Yes.

20 Q. It has got an asterisk on it. What is that?

21 A. It appears that we're still waiting on an  
22 order of some sort for the 03 release of Vera Sutherland or  
23 Vernon Sutherland.

24 Q. Vernon Sutherland, yeah. 03 being the  
25

1 third time that we've disbursed from this unit.

2 A. Yes. The third disbursement.

3 Q. And apparently they...you can't really get  
4 the exact amount of money until that disbursement is made,  
5 is that correct?

6 A. That's correct.

7 JIM KAISER: Okay. Does everybody understand  
8 that?

9 SHARON PIGEON: Well, it will be a 100% when you do  
10 get that.

11 Q. It will be a 100%---?

12 A. Yes.

13 Q. ---when it is made, right?

14 A. Uh-huh. Uh-huh.

15 Q. Okay. And---?

16 JIM KAISER: Mr. Kaiser, do we know when that  
17 disbursement was supposed to have been made? Mr. Cooper or  
18 Ms. Davis, can you---?

19 DIANE DAVIS: Yes, I can tell you.

20 JIM KAISER: Yeah, Diane can probably tell you  
21 better than I. We might have it back in here somewhere.

22 RITA BARRETT: It looks like if you look at Exhibit  
23 EE, the second page, it's Tract 6. It doesn't tell us  
24 though---.

25



1           A.       Yes.

2           JIM KAISER: Nothing further at this time, Mr.

3 Chairman.

4           BUTCH LAMBERT: Any questions from the Board?

5           (No audible response.)

6           BUTCH LAMBERT: Mr. Cook?

7           SHEA COOK: I have no questions.

8           BUTCH LAMBERT: Anything further, Mr. Kaiser?

9           JIM KAISER: We'd ask that the application be

10 approved as submitted.

11          BUTCH LAMBERT: Do I have a motion?

12          BRUCE PRATHER: Motion to approve.

13          BILL HARRIS: Second.

14          BUTCH LAMBERT: I have a motion and a second. Any

15 further discussion?

16          (No audible response.)

17          BUTCH LAMBERT: All in favor, signify by saying yes.

18          (All members signify by saying yes, but Donnie

19 Ratliff.)

20          BUTCH LAMBERT: Opposed, no.

21          DONNIE RATLIFF: I'll abstain, Mr. Chairman.

22          BUTCH LAMBERT: One abstention Mr. Ratliff. We're

23 calling docket item number 11. A petition from EQT

24 Production Company on behalf of Hurley Ratliff (Life Estate)

1 and Range Resources-Pine Mountain, Inc. for disbursement of  
2 funds from escrow regarding Tract 1, Unit VC-536636, docket  
3 number VGOB-09-1117-2635-01. All parties wishing to  
4 testify, please come forward.

5 JIM KAISER: Jim Kaiser and Rita Barrett for EQT  
6 Production.

7 SHEA COOK: Shea Cook for Hurley Ratliff.

8 BUTCH LAMBERT: You may proceed, Mr. Kaiser.

9

10

11

12

13

14 RITA BARRETT

15 having been duly sworn, was examined and testified as  
16 follows:

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. KAISER:

19 Q. Ms. Barrett, again, are you familiar with  
20 the disbursement request for this well?

21 A. I am.

22 Q. Have all parties been notified?

23 A. They have.

24 Q. And this is the unit for well VC-536636?

25

1                   A.       That's correct.

2                   Q.       And what tract?

3                   A.       Tract 1.

4                   Q.       And is this a full or partial disbursement?

5                   A.       This is a partial.

6                   Q.       And the reason for disbursement?

7                   A.       Again, we received a permanent release from

8 Range Resources of their claim to the CBM royalty.

9                   Q.       So, Mr. Ratliff will receive a 100%?

10                  A.       Yes.

11                  Q.       Have you reconciled your figures versus the

12 escrow agent's?

13                  A.       Yes.

14                  Q.       And the amount that you have...that's to be

15 disbursed up on the spreadsheet was calculated as of what

16 date?

17                  A.       October of 2011.

18                  Q.       And who should receive disbursements and at

19 what percentage?

20                  A.       Hurley R. Ratliff for Tract 1.       That

21 percentage is 55.606962%.

22                  Q.       Have you provided the Board with Exhibit E

23 and EE to reflect the facts of this disbursement?

24                  A.       Yes.

1 Q. And if the Board should issue an order  
2 calling for this disbursement do you ask that it include that  
3 all...going forward all royalty be paid directly to Hurley  
4 Ratliff?

5 A. Yes.

6 JIM KAISER: Nothing further at this time, Mr.  
7 Chairman.

8 BUTCH LAMBERT: Any questions from the Board?

9 RICK COOPER: Mr. Chairman, I have one. I guess in  
10 regards to these direct payments, do these check go to the  
11 individuals or do they go to Shea Cook?

12 SHARON PIGEON: Have you made a request for that?

13 SHEA COOK: I have not made a request. I can...  
14 first of all I didn't have that in writing. I think it's  
15 important to put that in writing. I would be presenting  
16 that. Not with regard to Hurley Ratliff, but with regard  
17 to Troy and William Williams and George and Carol Smith.

18 SHARON PIGEON: Which numbers are those?

19 SHEA COOK: That would be docket number...and I'm  
20 glad that Rick brought that up. That would be with regard  
21 to docket number four, nine, ten and eight...four, eight,  
22 nine and ten.

23 RICK COOPER: Four, eight, nine and ten.

24 SHEA COOK: Those would be the only four that I would  
25

1 be requesting that the checks be sent to my office payable  
2 to them individually.

3 SHARON PIGEON: You don't want your name on the  
4 check?

5 SHEA COOK: No. That's not necessary to do that.  
6 Just the check can come to me.

7 SHARON PIGEON: Could you provide a letter to DGC  
8 for that purpose?

9 SHEA COOK: Oh, I certainly will.

10 RITA BARRETT: If I may, he also needs to make sure  
11 that he notifies EQT at the Pittsburgh address of that  
12 because they will have to assign him a unique identifier  
13 number to trigger the checks to come to him.

14 DIANE DAVIS: Do you want the future royalty checks  
15 to come to you?

16 SHEA COOK: No, no, no.

17 SHARON PIGEON: No, no. He only wants the Board  
18 escrow checks to come to him.

19 DIANE DAVIS: Okay. Okay.

20 SHARON PIGEON: So no direct payment to him.

21 DIANE DAVIS: No. No.

22 RITA BARRETT: I apologize.

23 JIM KAISER: It would be just one time.

24 RITA BARRETT: So, you're just asking that payment  
25



1 out of escrow come to you---?

2 SHEA COOK: Yes.

3 RITA BARRETT: ---but any future royalties are  
4 paid directly to the landowner?

5 SHEA COOK: Yes. Yes.

6 RITA BARRETT: Okay. That way you get your  
7 percentage.

8 SHARON PIGEON: Is that clear enough over there so  
9 you all can get that---?

10 RICK COOPER: And we'll get the letter from Mr. Cook  
11 in regards to that.

12 JIM KAISER: You just get it in the order and we'll  
13 do what you say.

14 DIANE DAVIS: Thank you.

15 SHARON PIGEON: Yes. Mr. Cook, if you will follow  
16 up with letters on that so there's no question about---.

17 SHEA COOK: Yes, ma'am.

18 SHARON PIGEON: ---which ones we're talking  
19 about.

20 SHEA COOK: Will do.

21 BUTCH LAMBERT: Any further questions?

22 (No audible response.)

23 BUTCH LAMBERT: Do I have a motion?

24 BRUCE PRATHER: Motion to approve.

25

1           BILL HARRIS: Second.

2           BUTCH LAMBERT: I have a motion and a second. Any  
3 further discussion?

4           (No audible response.)

5           BUTCH LAMBERT: All in favor, signify by saying yes.  
6           (All members signify by saying yes, but Donnie  
7 Ratliff.)

8           BUTCH LAMBERT: Opposed, no.

9           SHARON PIGEON: Does Mr. Ratliff abstain?

10          DONNIE RATLIFF: I abstain.

11          BUTCH LAMBERT: One abstention Mr. Ratliff.

12          DONNIE RATLIFF: I was in another world.

13          SHARON PIGEON: That's all right. I've just got  
14 the same players here.

15          BUTCH LAMBERT: We was just giving you time.

16          DONNIE RATLIFF: Thank you.

17          SHARON PIGEON: Take your time. We want you to be  
18 sure.

19          BUTCH LAMBERT: We're calling docket item number  
20 12. A petition from EQT Production Company on behalf of  
21 Hurley Ratliff (Life Estate) and Range Resources-Pine  
22 Mountain, Inc. for disbursement of funds from escrow  
23 regarding Tract 1, Unit VC-536630. This is docket number  
24 VGOB-09-1117-2633-01. All parties wishing to testify,

1 please come forward.

2 JIM KAISER: Jim Kaiser and Rita Barrett on behalf  
3 of EQT Production.

4 SHEA COOK: Shea Cook on behalf of Hurley Ratliff.

5 BUTCH LAMBERT: You may proceed, Mr. Kaiser.

6

7 RITA BARRETT

8 having been duly sworn, was examined and testified as  
9 follows:

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. KAISER:

12 Q. Ms. Barrett, are you familiar with this  
13 disbursement request?

14 A. I am.

15 Q. Have all parties been notified?

16 A. Yes.

17 Q. And we're disbursing from the unit for well  
18 number 536630?

19 A. That's correct.

20 Q. And what tract?

21 A. Tract 1.

22 Q. And is this a partial or a full  
23 disbursement?

24 A. This is a partial.

25

1 Q. And the reason for this disbursement?

2 A. Again, we received a letter from Range  
3 Resources where they're relinquishing their claim to the CBM  
4 royalty.

5 Q. And so this will be a 100% to Mr. Hurley?

6 A. Yes.

7 Q. I mean, Mr. Ratliff. And have your figures  
8 been reconciled between the escrow agent and EQT?

9 A. They have.

10 Q. And as to the amount on our spreadsheet that  
11 was calculated as of what date?

12 A. October of 2011.

13 Q. And who should receive disbursements and at  
14 what percentage of escrowed funds?

15 A. Hurley Ratliff for Tract 1 and that is  
16 82.200247%.

17 Q. And have you provided the Board with  
18 Exhibits E and EE that reflect the facts of this  
19 disbursement?

20 A. We have.

21 Q. And do you ask that the order provide that  
22 the check from the actual escrow account be made to Mr.  
23 Hurley Ratliff but sent to Mr. Cook's office?

24 A. Yes.

25

1 Q. And do you ask that...do you ask that any  
2 royalty payments going forward be paid directly to Mr.  
3 Ratliff?

4 A. Yes.

5 JIM KAISER: Nothing further at this time, Mr.  
6 Chairman.

7 BUTCH LAMBERT: Any questions from the Board?

8 (No audible response.)

9 BUTCH LAMBERT: Mr. Cook.

10 SHEA COOK: No questions.

11 BUTCH LAMBERT: Anything further, Mr. Kaiser?

12 JIM KAISER: We'd ask that the application be  
13 approved as submitted, Mr. Chairman.

14 BUTCH LAMBERT: Do I have a motion?

15 BRUCE PRATHER: Motion to approve.

16 BILL HARRIS: Second.

17 BUTCH LAMBERT: I have a motion and a second. Any  
18 further discussion?

19 (No audible response.)

20 BUTCH LAMBERT: All in favor, signify by saying yes.

21 (All members signify by saying yes, but Donnie  
22 Ratliff.)

23 BUTCH LAMBERT: Opposed, no.

24 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

25

1            BUTCH LAMBERT: One abstention Mr. Ratliff.  
2 Diane, is lunch here? If lunch is here, we'll break.

3            DIANE DAVIS: Yes, sir. I think I smell it.

4            BUTCH LAMBERT: Okay. We're going to go ahead and  
5 break for lunch at this time. Please be back by...in one  
6 hour at 12:30.

7            (Lunch Break.)

8            BUTCH LAMBERT: We'll resume our proceedings.  
9 We're calling docket item number 13. A petition from CNX  
10 Gas Company, LLC for the disbursement of funds from escrow  
11 for a portion of Tract 3, Unit S-35, docket number  
12 VGOB-98-0915-0681-07. All parties wishing to testify,  
13 please come forward.

14           MARK SWARTZ: Mark Swartz and Anita Duty.

15           (Anita Duty is duly sworn.)

16           DIANE DAVIS: May I ask a question before they  
17 start?

18           (No audible response.)

19           DIANE DAVIS: Do you have a better copy of this? I  
20 can't hardly read it.

21           ANITA DUTY: Just that.

22           DIANE DAVIS: That's the tract ID and the plat.

23           BUTCH LAMBERT: It's all pretty fuzzy. Our copy  
24 is---.

25

1            DIANE DAVIS: They will give me a hard time at the  
2 Courthouse is the only reason.

3            ANITA DUTY: Well, I can give you one. I don't have  
4 one with me. I can't believe they did that. I didn't pay  
5 any attention.

6            DIANE DAVIS: Okay. Thank you.

7            SHARON PIGEON: Yeah. The Courthouse is not going  
8 to be too happy with that. I don't blame them.

9            ANITA DUTY: I will get you one. I'll put a note.

10           DIANE DAVIS: Okay. Me too.

11           RICK COOPER: I have got it wrote down in my notes.

12           BUTCH LAMBERT: You may begin, Mr. Swartz.

13

14                            ANITA DUTY

15 having been duly sworn, was examined and testified as  
16 follows:

17                            DIRECT EXAMINATION

18 QUESTIONS BY MR. SWARTZ:

19                    Q.        Anita, could you state your name for us,  
20 please?

21                    A.        Anita Duty.

22                    Q.        Who do you work for this month?

23                    A.        CNX Land Resources.

24                    Q.        Okay. And what do you do for them?

25

1           A.     I'm a pooling supervisor.

2           Q.     Okay.  And with regard to petitions for  
3 disbursements, could you give the Board an indication of  
4 what your duties are?

5           A.     We make sure that we read the royalty split  
6 agreement and then file the petitions and outline the  
7 interest to be paid and to make sure that all the deposits  
8 are accounted for.

9           Q.     Okay.  And with regard to...we're here  
10 today with regard to a disbursement from an escrow account  
11 pertaining to Unit S-35, correct?

12          A.     Yes.

13          Q.     And did you either prepare or supervise the  
14 preparation of this petition?

15          A.     Yes.

16          Q.     And have...did you sign the miscellaneous  
17 petition?

18          A.     I did.

19          Q.     Okay.  And if this petition were granted  
20 would the escrow account need to be maintained on a going  
21 forward basis regardless?

22          A.     Yes.

23          Q.     Okay.  The reason for this request for  
24 disbursement is what?

25



1           A.     A royalty split agreement.

2           Q.     And have you actually seen that agreement?

3           A.     Yes.

4           Q.     And what does it provide in terms of how this

5 split is to be accomplished?

6           A.     50/50.

7           Q.     Okay. And you've got an exhibit at the...I

8 think the last page of this application or petition. Is

9 Exhibit A-1, correct?

10          A.     Yes.

11          Q.     And is that...is that calculation through

12 a specific date?

13          A.     December the 31st, 2011.

14          Q.     Okay. And what did you do, if anything, to

15 confirm that the escrow account appeared to have the sort

16 of balance that you would expect to see?

17          A.     We compared our deposits with the bank's

18 records---.

19          Q.     Okay.

20          A.     ---to make sure that all were accounted for.

21          Q.     And so you were able when you did that to

22 determine if the bank had credited to the deposit account

23 all of the payments that you tendered?

24          A.     Yes. This is an ongoing. This is like the

25

1 7th one that we've done.

2 Q. I understand.

3 A. Yeah.

4 Q. But that's through 12/31 that you were able  
5 to accomplish that?

6 A. Yes. Yes.

7 Q. And having done that then as of this date  
8 were you able to make some percentage calculations that  
9 would enable the escrow agent to make a disbursement?

10 A. Yes.

11 Q. Okay. So turning again to Exhibit A-1,  
12 what tract does this pertain to?

13 A. Tract 3.

14 Q. And who is proposed to receive the  
15 disbursement?

16 A. Hurt McGuire Land Trust and they should  
17 receive 6.5505%, Wesley Perkins 3.2752% and Tanya Hess  
18 should also receive 3.2752%.

19 Q. Okay. And we can easily tell from the  
20 amounts that that generated in December and the amount of  
21 deposit that there would still be a substantial sum  
22 remaining after that, correct?

23 A. Yes.

24 Q. And is it your request that the Board  
25

1 approve these disbursements and direct the escrow agent to  
2 make the disbursements using the percentages that you  
3 calculated at the time the disbursements are made?

4 A. Yes.

5 Q. And also is it your request that in the event  
6 this petition is approved that you be allowed as operator  
7 to pay these folks that are getting these disbursements to  
8 pay them directly in the future so that you're not putting  
9 further money into this account for them?

10 A. Yes.

11 Q. Does this disbursement need to await  
12 another disbursement that has been approved and pending or  
13 are we good to go?

14 A. No. This one...this one is good.

15 Q. Okay. The wells that contributed to this  
16 escrow account were?

17 A. S-35A and S-35B.

18 Q. Okay. And there won't be additional money  
19 going into that escrow account for these...there wouldn't  
20 be additional money going into this escrow account for these  
21 people anyway because their money is now going into where?

22 A. The Buchanan No. 1 Sealed Gob 2.

23 MARK SWARTZ: Okay. I believe that's all I have,  
24 Mr. Chairman.

25

1           BUTCH LAMBERT: Any questions from the Board?  
2           (No audible response.)  
3           BUTCH LAMBERT: Anything further, Mr. Swartz?  
4           MARK SWARTZ: No.  
5           BUTCH LAMBERT: Do I have a motion?  
6           BRUCE PRATHER: Motion to approve.  
7           BILL HARRIS: Second.  
8           BUTCH LAMBERT: I have a motion and a second. Any  
9 further discussion?  
10          (No audible response.)  
11          BUTCH LAMBERT: All in favor, signify by saying yes.  
12          (All members signify by saying yes, but Donnie  
13 Ratliff.)  
14          BUTCH LAMBERT: Opposed, no.  
15          DONNIE RATLIFF: I'll abstain, Mr. Chairman.  
16          BUTCH LAMBERT: One abstention Mr. Ratliff. We're  
17 calling docket item 14. A petition from CNX Gas Company,  
18 LLC for the disbursement of funds from escrow for a portion  
19 of Tract 3 and 3C in Unit S-36, docket number  
20 VGOB-98-0324-0626-09. All parties wishing to testify,  
21 please come forward.  
22          MARK SWARTZ: Mark Swartz and Anita Duty.  
23          BUTCH LAMBERT: You may proceed, Mr. Swartz.  
24          MARK SWARTZ: Thank you. If I could incorporate

1 Anita's testimony with regard to her responsibilities  
2 concerning disbursement petitions and the comparisons that  
3 she makes. That might save us some time.

4 BUTCH LAMBERT: Accepted.

5 MARK SWARTZ: Thank you.

6

7

8 ANITA DUTY

9 having been duly sworn, was examined and testified as  
10 follows:

11 DIRECT EXAMINATION

12 QUESTIONS BY MR. SWARTZ:

13 Q. Anita, this disbursement request pertains  
14 to S-36, correct?

15 A. Yes.

16 Q. And as the last one that we just  
17 considered...the escrow account is going to need to be  
18 maintained by the escrow agent after these disbursements?

19 A. Yes.

20 Q. It's just a partial disbursement?

21 A. It is.

22 Q. Okay. And have you submitted, as if your  
23 custom, revised Exhibits E and EE on a going forward basis  
24 here?

25

1 A. Yes.

2 Q. Okay. And again like the last, you know,  
3 we were talking about, the wells that...that well that  
4 contributed to this originally was S-36, I think.

5 A. Yes.

6 Q. And...but at the present time production is  
7 being credited to Buchanan No. 1 Sealed Gob Unit, correct?

8 A. Yes.

9 Q. Okay. The escrow calculation here is  
10 reported on Exhibit A-1, correct?

11 A. It is.

12 Q. And it is as of 12/31/11?

13 A. Yes.

14 Q. And what percentages...who should the  
15 escrow agent make the checks out to and what percentages  
16 should the agent use in making the disbursement?

17 A. For Tract 3 Hurt McGuire Land Trust should  
18 receive a total of 7.1608%. Leslie Perkins should receive  
19 3.5804%. Tanya Hess should also should 3.5804%. For Tract  
20 3C Hurt McGuire Land Trust will receive a total of 1.9859%  
21 and Wesley Perkins and Tanya Hess should each receive  
22 0.9930%.

23 Q. Okay. And you're also requesting in  
24 addition to the escrow agent being directed to make these

25

1 disbursements and using the percentages to calculate them,  
2 you're also asking that you be allowed to pay these folks  
3 directly in the future to the extent that they have money  
4 in the sealed gob account, correct?

5 A. Yes.

6 Q. Okay.

7 A. Well, we'll have to do that one separately.

8 Q. I know. But you might as well---.

9 A. Yes.

10 Q. Okay. And...oh, and then the reason for  
11 this request?

12 A. A 50/50 royalty split.

13 Q. Okay. Is that a written agreement that  
14 you've actually seen?

15 A. Yes.

16 MARK SWARTZ: Okay. That's all I've seen, Mr.  
17 Chairman.

18 BUTCH LAMBERT: Any questions from the Board?

19 (No audible response.)

20 BUTCH LAMBERT: Anything further, Mr. Swart?

21 MARK SWARTZ: No.

22 BUTCH LAMBERT: Do I have a motion?

23 BRUCE PRATHER: Motion to approve.

24 BILL HARRIS: Second.

25

1            BUTCH LAMBERT: I have a motion and a second. Any  
2 further discussion?

3            (No audible response.)

4            BUTCH LAMBERT: All in favor, signify by saying yes.

5            (All members signify by saying yes, but Donnie  
6 Ratliff.)

7            BUTCH LAMBERT: Opposed, no.

8            DONNIE RATLIFF: I'll abstain, Mr. Chairman.

9            BUTCH LAMBERT: One abstention Mr. Ratliff. We're  
10 calling item 15. A petition from CNX Gas Company, LLC for  
11 the disbursement of funds from escrow and authorization of  
12 direct payment of royalties from Tract 1E, 2A and 2B, Unit  
13 AV-124, docket number VGOB-02-0820-1050-01. All parties  
14 wishing to testify, please come forward.

15           MARK SWARTZ: Mark Swartz and Anita Duty.

16           BUTCH LAMBERT: You may proceed, Mr. Swartz.

17           MARK SWARTZ: Thank you. If I could incorporate  
18 Anita's testimony from the first disbursement hearing with  
19 regards to her responsibilities and what she does.

20           BUTCH LAMBERT: Accepted.

21           MARK SWARTZ: Thank you.

22

23                            ANITA DUTY

24 having been duly sworn, was examined and testified as

25



1 follows:

2 DIRECT EXAMINATION

3 QUESTIONS BY MR. SWARTZ:

4 Q. Anita, state your name for us, again.

5 A. Anita Duty.

6 Q. I'm going to remind you that you're still  
7 under oath.

8 A. Yes.

9 Q. Okay. This disbursement request pertains  
10 to Unit AV-124, correct?

11 A. Yes.

12 Q. Is it a partial or a complete disbursement?

13 A. A partial.

14 Q. Involving Tracts 1E, 2A and 2B?

15 A. Yes.

16 Q. Okay. And the reason for the request?

17 A. A royalty split agreement.

18 Q. Have you seen it?

19 A. Yes.

20 Q. And what are its provisions in terms of how  
21 the money is to be split?

22 A. 50/50.

23 Q. Okay. In that regard then apparently you  
24 have some revised Exhibits E and EE, correct?

25

1           A.       Yes. We just had to remove Marcella Keen.  
2 She never sent her W-9 back to us, so we took her off---.

3           Q.       So, that's the only change?

4           A.       ---to keep from holding everybody up.  
5 That's really the only thing we did and a new table.

6           Q.       So, Anita, in addition to providing the  
7 Board with a revised Exhibit E and EE to accomplish what  
8 you're just discussed you've also given them a revised A-1  
9 that has removed her from the disbursement request?

10          A.       Yes, we did.

11          Q.       And that's the last page of what you just  
12 passed out?

13          A.       Yes.

14          Q.       Okay. And other than removing her line  
15 from Exhibit A-1, did it remain the same when compared to  
16 (inaudible)?

17          A.       Yes.

18          Q.       Okay.           The       account       balance  
19 calculation...or the account balances and the calculations  
20 that you performed were as of what date?

21          A.       December the 31st, 2011.

22          Q.       Okay. The well that was contributing to  
23 this escrow account?

24          A.       AV-124.

25

1                   Q.       And it looks like this well is still  
2 producing and it is not within a sealed gob or other unit,  
3 correct?

4                   A.       Correct.

5                   Q.       Okay.    Who should...are you proposing  
6 should receive the disbursements and at what percentages and  
7 just take them in order by tract?

8                   A.       For Tract 1E Swords Creek Land Partnership  
9 should receive a total of 0.0356%.   Connie Stilwell, Jolene  
10 Jefferies and Richard Trevino should...oh, no.   Connie  
11 Stilwell and Jolene Jefferies should each receive 0.0119%  
12 and Richard Trevino should receive 0.004%.   For Tract 2A  
13 Stuart Land and Cattle should receive 0.6268% and Francis  
14 Dye should also receive 0.6268%.   For Tract 2B Stuart Land  
15 and Cattle 0.0645%.   Connie Stilwell and Jolene Jefferies  
16 should each receive 0.0215% and Richard Trevino should  
17 receive 0.0072%.

18                  Q.       Is it your request that the Board direct the  
19 escrow agent to the make the disbursements to the folks  
20 you've identified from the tracts accounts that you've  
21 identified using the percentages to calculate the  
22 amount...the dollars due and applying those percentages to  
23 the balance at the time the disbursements are made?   That's  
24 one of the things that you're asking for, right?

25

1 A. Yes.

2 Q. And the other thing is that once that  
3 disbursement occurs you're asking for an ability as operator  
4 to pay the folks in the revised Exhibits E and EE to the  
5 extent they're on EE directly?

6 A. Yes.

7 MARK SWARTZ: That's all I have.

8 BUTCH LAMBERT: Any questions from the Board?

9 (No audible response.)

10 BUTCH LAMBERT: Anything further, Mr. Swartz?

11 MARK SWARTZ: No.

12 BUTCH LAMBERT: Do I have a motion?

13 BRUCE PRATHER: Motion to approve.

14 BILL HARRIS: Second.

15                    BUTCH LAMBERT: I have a motion and a second. Any  
16 further discussion?

17 (No audible response.)

18 BUTCH LAMBERT: All in favor, signify by saying yes.

19 (All members signify by saying yes, but Donnie  
20 Ratliff.)

21 BUTCH LAMBERT: Opposed, no.

22 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

23 (Donnie Ratliff and Butch Lambert confer among  
24 themselves.)

1            BUTCH LAMBERT: We're calling docket item number  
2 16. A petition from CNX Gas Company, LLC for the  
3 disbursement of funds from escrow and authorization of  
4 direct payment of royalties from Tracts 2C and 2D in Unit  
5 AV-125, docket number VGOB-02-0820-1051-01. All parties  
6 wishing to testify, please come forward.

7            MARK SWARTZ: Mark Swartz and Anita Duty.

8            BUTCH LAMBERT: You may proceed, Mr. Swartz.

9

10                            ANITA DUTY

11 having been duly sworn, was examined and testified as  
12 follows:

13                            DIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15            Q. Anita, state your name for us again, please?

16            A. Anita Duty.

17            MARK SWARTZ: Mr. Chairman, if I could incorporate  
18 Anita's testimony earlier today with regard to her duties,  
19 respect to miscellaneous petitions and the process that she  
20 follows.

21            BUTCH LAMBERT: Accepted.

22            MARK SWARTZ: Thank you.

23            Q. This disbursement request pertains to  
24 AV-125, correct?

25

1 A. Yes.

2 Q. And it's a partial?

3 A. It is.

4 Q. And the escrow account then would need to

5 be maintained even after the disbursements?

6 A. Yes.

7 Q. It's based on...it looks like we've got

8 Stuart Land and Cattle again. So, we've got a written split

9 agreement here.

10 A. We do.

11 Q. Have you seen it?

12 A. I have.

13 Q. And after you've reviewed it, what did you

14 determine that terms were that were provided?

15 A. 50/50.

16 Q. Have you provided the Board with a revised

17 Exhibit E and EE that would obtain after the disbursements?

18 A. Yes.

19 Q. Okay. Turning to the last page of the

20 petition, we've got an Exhibit A-1 escrow calculation,

21 right?

22 A. Yes.

23 Q. The well that contributed to this account

24 was?

1 A. AV-125.

2 Q. And clearly the amount of deposit exceeds  
3 the disbursement estimates, doesn't it?

4 A. Yes, it does.

5 Q. Okay. And this balance was done as of what  
6 date?

7 A. December the 31st, 2011.

8 Q. Okay. Would you tell us what tracts...what  
9 person should receive disbursements and what percentages  
10 should be used and identify the tracts?

11 A. For Tract 2C Stuart Land and Cattle and I  
12 believe Stilwell should each receive 4.1852% in the escrow  
13 account. For Tract 2B Stuart Land and Cattle and Francis  
14 Dye should each receive 0.0626%.

15 Q. And the escrow agent should be directed to  
16 use the percentage and apply it to the balance on hand at  
17 the time the disbursement is made, right?

18 A. Yes.

19 Q. And we've already talked about but just to  
20 reconfirm, we would like to be able to pay these folks  
21 directly in the future?

22 A. Yes.

23 MARK SWARTZ: That's all I have, Mr. Chairman.

24 BUTCH LAMBERT: Any questions from the Board?

25

1 (No audible response.)  
2 BUTCH LAMBERT: Anything further, Mr. Swartz?  
3 MARK SWARTZ: No.  
4 BUTCH LAMBERT: Do I have a motion?  
5 BRUCE PRATHER: Motion to approve.  
6 BILL HARRIS: Second.  
7 BUTCH LAMBERT: I have a motion and a second. Any  
8 further discussion?  
9 (No audible response.)  
10 BUTCH LAMBERT: All in favor, signify by saying yes.  
11 (All members signify by saying yes, but Donnie  
12 Ratliff.)  
13 BUTCH LAMBERT: Opposed, no.  
14 DONNIE RATLIFF: I'll abstain, Mr. Chairman.  
15 BUTCH LAMBERT: One abstention Mr. Ratliff. We're  
16 calling docket item number 17. A petition from CNX Gas  
17 Company, LLC for the disbursement of funds from escrow and  
18 authorization of direct payment of royalties from Tract 1E,  
19 2A and 2B in Unit AW-124, docket number  
20 VGOB-03-1118-1223-01. All parties wishing to testify,  
21 please come forward.  
22 MARK SWARTZ: Mark Swartz and Anita Duty. Mr.  
23 Chairman, if I could incorporate Anita's testimony from  
24 earlier today with regard to her job responsibilities and



1 the process she follows with regard to these petitions. I'd  
2 appreciate it.

3 BUTCH LAMBERT: Accepted.

4 MARK SWARTZ: Thank you.

5

6 ANITA DUTY

7 having been duly sworn, was examined and testified as  
8 follows:

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. SWARTZ:

11 Q. Would you state your name for us, again?

12 A. Anita Duty.

13 Q. And we have another set of revised exhibits  
14 E and EE and the escrow calculation and do we have the same  
15 problem here that we had just a few moments ago?

16 A. Yes.

17 Q. And we were missing a W-9?

18 A. We are.

19 Q. Whose?

20 A. Marcella Keen.

21 Q. Okay. So, we've removed...we've added her  
22 back to Exhibit E---?

23 A. Uh-huh. Yes.

24 Q. ---and we have deleted her from Exhibit A-1,

25

1 correct?

2 A. Yes.

3 Q. Okay. I am guessing that this escrow  
4 account disbursement is a partial?

5 A. It is.

6 Q. Okay. In looking at Exhibit A-1, it's  
7 pretty obvious that even as of December the amount on  
8 deposit, you know, exceeded substantially the disbursement  
9 request?

10 A. Yes.

11 Q. Okay. These calculations were as of what  
12 date?

13 A. December the 31st, 2011.

14 Q. Okay. And taking it on a tract by tract  
15 basis, would you tell the Board who you're requesting the  
16 escrow agent to make the disbursements to and the  
17 percentages that should be used?

18 A. For Tract 1E Swords Creek Land Partnership  
19 should receive a total of 0.0331%. Connie Stilwell and  
20 Jolene Jefferies should each receive 0.110%. Richard  
21 Trevino should receive 0.0037%. For Tract 2A---

22 SHARON PIGEON: Anita, I believe you misspoke there  
23 on the Stilwell and Jefferies. I think you left out one of  
24 the 0s there.

25

1           A.       Okay.   They should each receive 0.0110%.  
2   For Tract 2A Stuart Land and Cattle and Francis Dye should  
3   each receive 0.2929%.   For Tract 2B Stuart Land and Cattle  
4   should receive a total of 0.1101%.   Connie Stilwell and  
5   Jolene Jefferies should each receive 0.0367% and Richard  
6   Trevino should receive 0.0122%.

7           Q.       The well that contributed to this escrow  
8   account was AW-124, correct?

9           A.       Yes.

10          Q.       And the escrow agent should use the  
11   percentage that you have just read into the record and apply  
12   those to the amount on deposit at the time the disbursement  
13   is made?

14          A.       Yes.

15          Q.       And you're also once again requesting the  
16   ability to pay the people receiving the disbursements on a  
17   going forward basis directly?

18          A.       Yes.

19          Q.       Okay.

20          A.       There was one other thing.

21          Q.       Okay.

22          A.       The three people that we have listed, the  
23   Stilwell, the Jefferies and the Trevino.   They were on the  
24   supplement.   They were on the EE but we never paid them.   It

25

1 was one of those deals where we deposited the money prior  
2 to the supplemental order being issued and the supplemental  
3 had to move there and never was paid that way. So, whenever  
4 you write a check for your percentages you'll be off. We've  
5 got out backup history from our payments and everything like  
6 that if you want us to give that to you. There were always  
7 on the EE. They were just never paid.

8 DIANE DAVIS: Okay. Who were those again?

9 ANITA DUTY: I think it's everybody in this unit.  
10 The Stilwell, the Jefferies and the Trevino.

11 DIANE DAVIS: Okay.

12 MARK SWARTZ: Well, except for Francis Dye. So,  
13 it's the 1E and 2B tracts.

14 ANITA DUTY: Yes.

15 DIANE DAVIS: Okay.

16 RICK COOPER: One other thing, Mr. Chairman, we  
17 probably need a new revised front page reflecting Marcella  
18 Keen off.

19 ANITA DUTY: Okay.

20 MARK SWARTZ: Well, we had to notice her, I think,  
21 you know.

22 RICK COOPER: I mean, you've got her on the front  
23 page.

24 DIANE DAVIS: As being disbursed. We record that

25

1 as part of the order.

2 MARK SWARTZ: Oh, you do.

3 DIANE DAVIS: Yes, we do.

4 MARK SWARTZ: Okay.

5 DIANE DAVIS: The petition is part of the order that  
6 we record. So, just send me a corrected front page.

7 RICK COOPER: The front page.

8 MARK SWARTZ: Yeah, we can do that. Do you have to  
9 do that?

10 DIANE DAVIS: It's what I've always been told to do.

11 SHARON PIGEON: I had no role in that.

12 MARK SWARTZ: I don't know. I just was wondering  
13 because this happens pretty often.

14 SHARON PIGEON: That's the---.

15 DIANE DAVIS: Yeah.

16 ANITA DUTY: Yeah.

17 DIANE DAVIS: And I usually just mark through it.

18 MARK SWARTZ: Okay. Well...I'd like to make a  
19 motion that Diane be commissioned to use her magic marker.

20 DIANE DAVIS: If it's okay with the Board, it's okay  
21 with me.

22 MARK SWARTZ: But we can...we can do that.

23 BUTCH LAMBERT: Okay.

24 MARK SWARTZ: Just get rid of her---.

25

1           ANITA DUTY: Okay.

2           MARK SWARTZ: ---in the relief sought, okay. You  
3 can leave her in the factual basis because she signed the  
4 agreement. You have to. But in the relief sought---.

5           ANITA DUTY: No.

6           MARK SWARTZ: ---we're not asking for her money to  
7 be disbursed. Just fix that.

8           ANITA DUTY: Can they quit doing that?

9           MARK SWARTZ: So what?

10          ANITA DUTY: Can they quit doing that?

11          MARK SWARTZ: I don't know. I'm trying to like in  
12 a gentle way suggest they consider it instead of just telling  
13 them like you did.

14          DIANE DAVIS: So, you're saying don't record an  
15 order, huh?

16          MARK SWARTZ: No. It just kind of surprised me that  
17 you're recording the petition because it's not---.

18          DIANE DAVIS: We do.

19          MARK SWARTZ: ---going to be congruent with the  
20 orders all the time. You might want to think about it. But  
21 we'll fix this.

22          SHARON PIGEON: Well, we might want to think about  
23 it at another time. Right now do---.

24          MARK SWARTZ: Exactly.

25

1           SHARON PIGEON: ---what this woman told you to do.  
2           ANITA DUTY: After today.  
3           MARK SWARTZ: No, we just said we would.  
4           ANITA DUTY: Tomorrow.  
5           MARK SWARTZ: We're just totally easy, you know.  
6           BUTCH LAMBERT: Okay.  
7           DIANE DAVIS: He has to do with the language in the  
8 order is why there's that---.  
9           BUTCH LAMBERT: Okay. So, do it on this one. It  
10 needs to be done on the other one where she was taking off  
11 as well.  
12           DIANE DAVIS: Uh-huh.  
13           BUTCH LAMBERT: Okay.  
14           DIANE DAVIS: I usually just mark through them.  
15           BUTCH LAMBERT: Anything further, Mr. Swartz?  
16           MARK SWARTZ: No.  
17           BUTCH LAMBERT: Do I have a motion?  
18           BRUCE PRATHER: Motion to approve.  
19           BILL HARRIS: Second.  
20           BUTCH LAMBERT: I have a motion and a second. Any  
21 further discussion?  
22           (No audible response.)  
23           BUTCH LAMBERT: All in favor, signify by saying yes.  
24           (All members signify by saying yes, but Donnie  
25

1 Ratliff.)

2 BUTCH LAMBERT: Opposed, no.

3 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

4 BUTCH LAMBERT: One abstention Mr. Ratliff. Mr.  
5 Scott, is it okay if we move you down two so we can finish  
6 out with these folks?

7 (No audible response.)

8 BUTCH LAMBERT: We'll owe you one.

9 MARK SWARTZ: He's trouble. But he's not always  
10 trouble, you know.

11 TIM SCOTT: You're going to do it anyway, aren't  
12 you?

13 MARK SWARTZ: I don't know. It's up to them. It's  
14 up to them.

15 TIM SCOTT: Whatever.

16 MARK SWARTZ: They just punish you, you know.

17 TIM SCOTT: I know.

18 SHARON PIGEON: (Inaudible)\_ save you to the end.

19 BUTCH LAMBERT: We're calling docket item number  
20 19. A petition from CNX Gas Company, LLC for pooling of  
21 coalbed methane unit DD-13, docket number  
22 VGOB-12-0313-3038. All parties wishing to testify, please  
23 come forward.

24 MARK SWARTZ: Mark Swartz and Anita Duty.

25



1            BUTCH LAMBERT: Please state your name for the  
2 record.

3            JOHN SHEFFIELD: John Sheffield.

4            (John Sheffield is duly sworn.)

5            BUTCH LAMBERT: You may proceed, Mr. Swartz.

6            MARK SWARTZ: Thank you.

7                            ANITA DUTY

8 having been duly sworn, was examined and testified as  
9 follows:

10                           DIRECT EXAMINATION

11 QUESTIONS BY MR. SWARTZ:

12            Q.        Anita, state your name for us, please.

13            A.        Anita Duty.

14            Q.        Now, this is an application for pooling as  
15 opposed to what we've been talking about, correct?

16            A.        We do.

17            Q.        And you have different duties with regard  
18 to this, I assume?

19            A.        Yes.

20            Q.        Okay. And in general what are they?

21            A.        To prepare the petition and make sure that  
22 all of the owners are aware of it.

23            Q.        Okay. In this instance, it looks like you  
24 signed the notice of hearing and the application as well?

25

1 A. Yes.

2 Q. Okay. And this is as an application to pool  
3 which unit?

4 A. DD-13.

5 Q. And have you provided the Board in the  
6 application and exhibits with a plat?

7 A. Yes.

8 Q. And it's an Oakwood unit, correct?

9 A. It is.

10 Q. And how many acres?

11 A. 80.

12 Q. And it has how many wells?

13 A. One.

14 Q. And that well is actually outside of the  
15 drilling window?

16 A. It is.

17 Q. And what did you do to advise the people that  
18 are listed as respondents in the notice of hearing that there  
19 was going to be a hearing today?

20 A. I mailed by certified mail return receipt  
21 requested on February the 10th, 2012. I published the  
22 notice and location map in the Bluefield Daily Telegraph on  
23 February the 15th, 2012.

24 Q. Have you provided or are you about to  
25

1 provide Mr. Cooper with your certificates with regard to  
2 mailing your proof of publication?

3 A. Yes.

4 Q. Okay. Do you want to add any people to the  
5 list of respondents today?

6 A. No.

7 Q. Do you want to dismiss any people?

8 A. No.

9 Q. And do we have any revised exhibits?

10 A. No.

11 Q. Okay. Who is the applicant?

12 A. CNX Gas Company.

13 Q. And who is it that is proposed to be the  
14 operator?

15 A. CNX Gas Company.

16 Q. In that regard, has CNX Gas Company a  
17 Virginia Limited Liability Company?

18 A. It is.

19 Q. Is it authorized to do business in the  
20 Commonwealth?

21 A. Yes.

22 Q. Has CNX registered with the Department of  
23 Mines, Minerals and Energy?

24 A. Yes.

25

1 Q. Does it have the required bond on file?

2 A. It does.

3 Q. Okay. Is this proposed well supposed to be  
4 a frac well?

5 A. Yes.

6 Q. Have you provided cost information with  
7 regard to the one well that is proposed?

8 A. Yes.

9 Q. And what is that?

10 A. The estimated cost is \$317,449 with an  
11 estimated depth of 2,560 feet.

12 Q. Do you have a permit yet?

13 A. No.

14 Q. Okay. And what interests have you acquired  
15 in this unit and what interests are you seeking to pool?

16 A. We've acquired 97.3625% of the coal and gas  
17 owner's claim to the CBM. We are seeking to pool 2.6375%  
18 of the coal and gas owner's claim to the CBM.

19 Q. Okay. And you've provided the Board with  
20 Exhibit B-3 indicating for each respondent the acres in the  
21 unit, the percent of unit and so forth?

22 A. Yes.

23 Q. And I believe there is an escrow  
24 requirement. There is, correct?

25

1 A. Yes.

2 Q. And the reason for escrow in general is

3 what?

4 A. It is a conflict in the CBM ownership.

5 Q. Okay. Does it pertain only to Tract 5, the

6 escrow?

7 A. Yes.

8 Q. Okay.

9 A. It will just a portion of Tract 5.

10 Q. Okay. As far as...we know at this point at

11 least there are no split agreements. So, we don't have an

12 Exhibit EE, correct?

13 A. Right.

14 Q. Is it your view that drilling a frac well

15 in a location shown on the plat in this unit is a reasonable

16 way to develop the coalbed methane from and within this unit?

17 A. Yes.

18 Q. Is it your further opinion that if you

19 combine a pooling order pooling the respondents with the

20 interests that the operator has acquired on a voluntary

21 basis that the correlative rights of all owners and

22 claimants to the CBM will be protected?

23 A. Yes.

24 MARK SWARTZ: That's all I have, Mr. Chairman.

1                   BUTCH LAMBERT: Any questions from the Board?  
2                   (No audible response.)  
3                   BUTCH LAMBERT: Mr. Sheffield.  
4                   JOHN SHEFFIELD: Mr. Chairman, if I may, I do have  
5 a few questions. Anita, I notice that you mentioned that  
6 this was a frac well. So, I guess by being a frac well there  
7 would be no coal mining or anything going on underneath or  
8 planning to go on underneath this well?  
9                   ANITA DUTY: Not that I'm aware of.  
10                  JOHN SHEFFIELD: Okay. All right. And I  
11 believe---.  
12                  MARK SWARTZ: Well, in fairness---.  
13                  JOHN SHEFFIELD: Well no mine plan.  
14                  MARK SWARTZ: Well, I'm not sure that that would be  
15 true either.  
16                  JOHN SHEFFIELD: Okay.  
17                  MARK SWARTZ: I mean, you know, you can mine coal  
18 that has been fraced. So, I mean, she is telling there's  
19 nothing at the moment. But it sounded like your question  
20 that you were asking is sort of never. I mean, what is---?  
21                  JOHN SHEFFIELD: No, I...I would say that's not---.  
22                  MARK SWARTZ: You didn't intend that, okay.  
23                  JOHN SHEFFIELD: No, I did not. Thank you, Mark.  
24 I appreciate that. And you stated that the total depth for  
25

1 the well, I believe, was 2,560 feet.

2 ANITA DUTY: That's the estimate.

3 JOHN SHEFFIELD: Okay. I was noticing over  
4 here...I guess it would be in the permit that it talks about  
5 all the different seams of coal, I believe, and there's quite  
6 a few. It stops at...I believe that's P22 and it stops at  
7 a depth of 2,289.59 feet and then you come down here and it  
8 says RG and then there's nothing. So, basically, is  
9 that...I don't know. I'm just asking. From 2,289.59 feet  
10 to the estimate of 2,560 that would be the RG. Is that a  
11 fair question?

12 ANITA DUTY: Yes, I guess. I mean, I don't---.

13 JOHN SHEFFIELD: Yeah. I'm just going by...that's  
14 all that's from there to there. It's not on the same page  
15 over here when you have the plugging. You have a total  
16 depth. You didn't have...and you're saying it's 2,560  
17 feet. I see that it stops here when you are listing all of  
18 the coal seams of 2,289.59. Then it just---,

19 MARK SWARTZ: Where is the P3 though?

20 JOHN SHEFFIELD: The P3 is right in here.

21 BRUCE PRATHER: Mr. Chairman---.

22 BUTCH LAMBERT: Mr. Sheffield, are you reading  
23 from...are you looking at a permit application?

24 JOHN SHEFFIELD: I'm looking at...yes, sir, I am.

25

1           BUTCH LAMBERT: Okay. Yeah, we don't have that  
2 information up here.

3           BRUCE PRATHER: Mr. Chairman, I might be able to  
4 help him on that.

5           JOHN SHEFFIELD: Thank you.

6           BRUCE PRATHER: What the deal is these wells are  
7 pumped. Okay, when you drill a well you drill a well about  
8 a 125 to 150 feet below the lowest coal seam so that you have  
9 a sump down there that you can put that pump in and you can  
10 work that well. If you stop it right at the seam, there's  
11 no way you can pump that seam to pump that water off. So,  
12 that's the reason all of these wells are at least 125 to 150  
13 feet deeper than the nearest coal seam. That's pretty  
14 much---.

15  
16           JOHN SHEFFIELD: Okay. So, it would be consistent.  
17 Like in this situation, it would be 2,070 feet.

18           BRUCE PRATHER: Well, that might be a little long.

19           JOHN SHEFFIELD: Well, you've got to look at the  
20 cost of the well and things like that.

21           BRUCE PRATHER: That's their...that's their basis.

22           JOHN SHEFFIELD: Okay.

23           BRUCE PRATHER: But that's the reason it's done.

24           JOHN SHEFFIELD: Okay.

25



1           BUTCH LAMBERT: Mr. Sheffield, kind of keep your  
2 questions to the pooling order and not the permit  
3 application. We don't have that. We're not reviewing the  
4 application for the permit. We're reviewing the pooling  
5 order. If you're looking at the permit application and  
6 asking questions, we don't have that information and we  
7 can't make that...we don't make a permitting call. That  
8 would be for Mr. Cooper at some point in time. But if you  
9 have pooling order questions than we'll certainly would  
10 entertain those.

11           JOHN SHEFFIELD: Yes, Mr. Chairman. Thank you, Mr.  
12 Chairman. So, I'll move along. Concerning elections,  
13 there will be elections afforded to those that unleased  
14 individuals in this unit?

15           ANITA DUTY: Yes.

16           JOHN SHEFFIELD: Okay. And those elections will be  
17 either you can pay up-front your proportionate...your  
18 pro-rata share in other words. For argument's sake, it's  
19 a \$100,000 unit and you have 10% and you put up \$10,000  
20 up-front. That would be one option that you could do. Is  
21 that correct?

22           ANITA DUTY: Yes.

23           JOHN SHEFFIELD: And then we have a situation in the  
24 carried interest. In a carried interest you give up---?

25

1           SHARON PIGEON: Mr. Sheffield, these are in the  
2 statute, these options are.

3           JOHN SHEFFIELD: I'm just reviewing my correlative  
4 rights, ma'am, if I may.

5           SHARON PIGEON: Well, your question isn't going to  
6 change what the statute requires and that's what is already  
7 before the Board.

8           JOHN SHEFFIELD: So, you prefer me not to ask the  
9 question anymore?

10          SHARON PIGEON: Well, you're just going over  
11 information that isn't going to effect anything here.  
12 Those election options are what are required by the statute.  
13 Yes, you will be afforded those very same election options  
14 every time you're pooled.

15          JOHN SHEFFIELD: Yes, ma'am. Okay. All right. I  
16 guess, we'll just take me to my next question. In this, in  
17 the carried interest situation, is there anything that helps  
18 on annual basis track what your investment is in the well?

19          ANITA DUTY: Well, I think we talked about this  
20 maybe when you came to see me in December. I told you we  
21 were in the process of getting new software and there were  
22 going to be monthly statements that were going to start to  
23 come from that process.

24          JOHN SHEFFIELD: Yes, ma'am. I do appreciate that,  
25

1 Anita. I think the question is more back to the Board.  
2 Because it there anything in the Act that says there should  
3 be tracking it annually to let somebody know what their  
4 investment is.

5 MARK SWARTZ: Well, then I guess he's asking the  
6 Board.

7 ANITA DUTY: Okay.

8 JOHN SHEFFIELD: I'm asking her if she's seen it in  
9 the...or you, Mr. Swartz, have you seen that in the Act?

10 MARK SWARTZ: No.

11 JOHN SHEFFIELD: Okay. So, there is nothing in any  
12 Act that helps somebody track their investment, is that  
13 correct, Mr. Lambert?

14 BUTCH LAMBERT: Nothing that I'm aware of.

15 JOHN SHEFFIELD: Okay. Mr. Lambert, may I ask you  
16 another question? Do you ever invest?

17 BUTCH LAMBERT: That's not relevant, Mr. Sheffield.  
18 Let's stay with this order.

19 JOHN SHEFFIELD: How do we track it, Mr. Lambert?  
20 You get an annual statement, don't you, normally?

21 BUTCH LAMBERT: But that's...again, Mr. Sheffield,  
22 that's not relevant. I'm not going to address...answer  
23 person questions of what my business is to you.

24 JOHN SHEFFIELD: I'm asking you for a general basis.

25

1           BUTCH LAMBERT: I'm not going to answer your  
2 question, Mr. Sheffield. I'm not sure where you're taking  
3 this, but---.

4           JOHN SHEFFIELD: Alls I'm trying to say...if I may  
5 back up away from the question, alls I'm trying to say is  
6 it would be nice if we had something if you're a carried  
7 interest that helped with just an annual where you're at as  
8 far here's production, you know, how much we're paying for  
9 that production, here's your percentage of production and  
10 just know where your investment is.

11           BUTCH LAMBERT: Then I suggest you work with your  
12 Legislators and get some Legislation passed to put it into  
13 the Act and we'll certainly enforce it.

14           JOHN SHEFFIELD: Okay. Then I thank you for your  
15 time, Mr. Chairman.

16           BUTCH LAMBERT: Yes, sir. You're welcome.  
17 Anything further, Mr. Swartz?

18           MARK SWARTZ: No.

19           BUTCH LAMBERT: Any questions from the Board?

20           (No audible response.)

21           BUTCH LAMBERT: Do I have a motion?

22           BRUCE PRATHER: Motion to approve.

23           BILL HARRIS: Second.

24           BUTCH LAMBERT: I have a motion and a second. Any  
25

1 further discussion?

2 (No audible response.)

3 BUTCH LAMBERT: All in favor, signify by saying yes.

4 (All members signify by saying yes.)

5 BUTCH LAMBERT: Opposed, no.

6 (No audible response.)

7 BUTCH LAMBERT: We're calling docket item number  
8 20. A petition from CNX...Well, not a petition, CNX Gas  
9 Company, LLC requested that the docket item 10-0817-2779 for  
10 wells

11 N-79 and well N-79A be placed on the docket for a correction  
12 of testimony and submission of exhibits.

13 MARK SWARTZ: Mark Swartz and Anita Duty.

14

15 ANITA DUTY

16 having been duly sworn, was examined and testified as  
17 follows:

18 DIRECT EXAMINATION

19 QUESTIONS BY MR. SWARTZ:

20 Q. Anita, why are we here on these?

21 A. Diane and I had a discussion and when she  
22 reviewing to, I guess, do the Board order for this unit and  
23 we had a made...I guess I had made the statement that there  
24 was no escrow required, which is not correct. So, all we

25

1 want to do was to be able to add that to our...to correct  
2 testimony that we need to escrow and we have an Exhibit E.

3 Q. So, have you prepared then an Exhibit E as  
4 of 2/9/2012---?

5 A. Yes.

6 Q. ---which lists the tracts and the owners  
7 whose funds need to be escrowed with regard to this unit?

8 A. Yes.

9 Q. Have you brought copies for everybody?

10 A. I have.

11 MARK SWARTZ: Okay.

12 BUTCH LAMBERT: Is there anything further, Mr.  
13 Swartz,---?

14 MARK SWARTZ: No.

15 BUTCH LAMBERT: ---in the revised exhibit? Do I  
16 have a motion to accept the revised exhibits for docket item  
17 number 20?

18 BRUCE PRATHER: Motion to approve.

19 BUTCH LAMBERT: Do I have a second?

20 BILL HARRIS: Second.

21 BUTCH LAMBERT: I have a motion and a second. Any  
22 further discussion?

23 (No audible response.)

24 BUTCH LAMBERT: All in favor, signify by saying yes.

25

1 (All members signify by saying yes.)  
2 BUTCH LAMBERT: Opposed, no.  
3 (No audible response.)  
4 BUTCH LAMBERT: Thank you, Mr. Swartz.  
5 MARK SWARTZ: Thank you all very much.  
6 BUTCH LAMBERT: Now, we're calling docket item  
7 number 18. It's a petition from Range Resources-Pine  
8 Mountain, Inc. for a well location exception for proposed  
9 well 900007, docket number VGOB-12-0221-3034. All parties  
10 wishing to testify, please come forward.  
11 TIM SCOTT: Tim Scott, Lida Sinemus and Phil Horn  
12 for Range Resources-Pine Mountain, Inc.  
13 BUTCH LAMBERT: Thank you, Mr. Scott, for allowing  
14 us to jump over you one time.  
15 TIM SCOTT: All right.  
16 (Lida Sinemus and Phil Horn are duly sworn.)  
17 BUTCH LAMBERT: You may proceed, Mr. Scott  
18 TIM SCOTT: Thank you, Mr. Chairman.

19  
20  
21  
22  
23  
24  
25

PHIL HORN

1 having been duly sworn, was examined and testified as  
2 follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. SCOTT:

5 Q. Mr. Horn, would you please state your name,  
6 by whom you're employed and your job description?

7 A. My name is Phil Horn. I'm employed by Range  
8 Resources-Pine Mountain, Inc. as the manager of geology.  
9 One of my job duties is to get wells permitted and drilled.

10 Q. Now, we filed our original application for  
11 February, is that right?

12 A. That is correct.

13 Q. And we filed a revised application, is that  
14 also correct?

15 A. That's correct.

16 Q. Can you tell the Board why we filed the  
17 revised application?

18 A. If you will look at the plat the original  
19 application, our surveyors inadvertently left off 820292  
20 well which was closer the 2500 feet.

21 Q. So, we've renoticed have we not?

22 A. That's correct.

23 Q. Okay. And the owners of the minerals are  
24 set forth in Exhibit B, is that right?



1 A. That's right.

2 Q. And who operates the wells from which the  
3 well location exception is sought today?

4 A. Range Resources-Pine Mountain, Inc.

5 Q. How was notice of this hearing provided to  
6 the parties listed on Exhibit B for both the original  
7 application and the revised application?

8 A. By certified mail.

9 Q. And we've provided proof of mailing to the  
10 Board, is that right?

11 A. Yes, you have.

12 TIM SCOTT: Okay. That's all I have for Mr. Horn.

13 BUTCH LAMBERT: Any questions from the Board?

14 (No audible response.)

15 BUTCH LAMBERT: You may proceed, Mr. Scott.

16 TIM SCOTT: Thank you, Mr. Chairman.

17

18 LIDA SINEMUS

19 having been duly sworn, was examined and testified as  
20 follows:

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. SCOTT:

23 Q. Ms. Sinemus, would you please state your  
24 name, by whom you're employed and your job description?

25

1           A.       My name is Lida Sinemus. I'm employed by  
2 Range Resources-Pine Mountain. I'm a Senior Geologist with  
3 them.

4           Q.       And you're familiar with this application,  
5 is that correct?

6           A.       I am.

7           Q.       And you have done an Exhibit AA, is that  
8 right?

9           A.       I have.

10          Q.       Would you please tell the Board why we're  
11 seeking a well location exception for this particular unit?

12          A.       Yes. This well has been positioned to  
13 maximize the recovery of the remaining natural gas resources  
14 in relationship to all of the existing offsetting wells. As  
15 you can see on the Exhibit AA, there is no available location  
16 that meets the statewide spacing requirements.

17          Q.       What would be the number of acres that would  
18 be stranded if this application were not granted today?

19          A.       105.03 acres.

20          Q.       And what's the proposed depth of this well?

21          A.       The proposed depth is 6,167 feet.

22          Q.       And what would be the potential loss of  
23 reserves if the application were not granted today?

24          A.       400 million cubic feet.

25

1 Q. And, in your opinion, if the application is  
2 granted, it would prevent waste, promote conservation and  
3 protect correlative rights, is that correct?

4 A. Yes.

5 TIM SCOTT: That's all I have for Ms. Sinemus.

6 BUTCH LAMBERT: Any questions from the Board?

7 (No audible response.)

8 BUTCH LAMBERT: Anything further, Mr. Scott?

9 TIM SCOTT: That's all I have, Mr. Chairman.

10 BUTCH LAMBERT: Do I have a motion?

11 BRUCE PRATHER: Motion to approve.

12 BILL HARRIS: Second.

13 BUTCH LAMBERT: I have a motion and a second. Any  
14 further discussion?

15 (No audible response.)

16 BUTCH LAMBERT: All in favor, signify by saying yes.

17 (All members signify by saying yes, but Donnie  
18 Ratliff.)

19 BUTCH LAMBERT: Opposed, no.

20 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

21 BUTCH LAMBERT: One abstention Mr. Ratliff. We're  
22 calling docket item 21. A petition from Range  
23 Resources-Pine Mountain, Inc. for a well location exception  
24 for proposed well 900090, docket number VGOB-12-0313-3039.

25

1 All parties wishing to testify, please come forward.

2 TIM SCOTT: Again, Mr. Chairman, Tim Scott, Lida  
3 Sinemus and Phil Horn for Range Resources-Pine Mountain,  
4 Inc.

5 BUTCH LAMBERT: You may proceed, Mr. Scott.

6 TIM SCOTT: Thank you, Mr. Chairman.

7

8 PHIL HORN

9 having been duly sworn, was examined and testified as  
10 follows:

11 DIRECT EXAMINATION

12 QUESTIONS BY MR. SCOTT:

13 Q. Again, Mr. Horn, your name, by whom you're  
14 employed and your job description.

15 A. My name is Phil Horn. I'm employed by Range  
16 Resources-Pine Mountain, Inc. as the land manager.

17 Q. And you're familiar with this application,  
18 is that right?

19 A. Yes, I am.

20 Q. And you also participated in the  
21 preparation of the application, is that also correct?

22 A. That's correct.

23 Q. Are you familiar with the ownership of the  
24 minerals underlying this unit?

25

1 A. Yes, I am.

2 Q. And are those ownership set forth on Exhibit

3 B?

4 A. Yes, they are.

5 Q. Who operates the wells from which the well

6 location exception is sought today?

7 A. Range Resources-Pine Mountain, Inc.

8 Q. And Range is the operated for each of these

9 wells, is that correct?

10 A. That's correct.

11 Q. And how were the parties listed on Exhibit

12 B notified of this hearing today?

13 A. By certified mail.

14 Q. And we've provided proof of mailing to the

15 Board, is that right?

16 A. Yes, you have.

17 TIM SCOTT: Okay. That's all I have for Mr. Horn.

18 BUTCH LAMBERT: Any questions from the Board?

19 (No audible response.)

20 BUTCH LAMBERT: You may continue, Mr. Scott.

21 TIM SCOTT: Thank you, Mr. Chairman.

22

23 LIDA SINEMUS

24 having been duly sworn, was examined and testified as

1 follows:

2 DIRECT EXAMINATION

3 QUESTIONS BY MR. SCOTT:

4 Q. Ms. Sinemus, your job description, by whom  
5 you're employed and your name, please.

6 A. My name is Lida Sinemus. I'm employed by  
7 Range Resources-Pine Mountain, Inc. and I'm a Senior  
8 Geologist with them.

9 Q. So, you're familiar with this application,  
10 is that right?

11 A. I am.

12 Q. And you have also...you've provided an  
13 Exhibit A for this particular application, is that right?

14 A. I have.

15 Q. Please tell the Board why we're seeking a  
16 well location exception for this particular unit.

17 A. Again, this well was positioned to maximize  
18 the recovery of the remaining natural gas resources in  
19 relationship to the offsetting wells. As you can see also  
20 on this one, there is no location that meets the statewide  
21 spacing requirements.

22 Q. What would be the loss...what would be the  
23 stranded acreage on this particular unit if the application  
24 were not approved?

25

1           A.       87.99 acres.

2           Q.       And what's the proposed depth of this unit  
3 or this well?

4           A.       This well will be 4,947 feet.

5           Q.       And the potential loss of reserves if the  
6 application were not granted?

7           A.       600 million cubic feet.

8           Q.       In this case, if the application is granted,  
9 it would prevent waste, promote conservation and protect  
10 correlative rights, is that correct?

11          A.       It is.

12          TIM SCOTT: That's all I have for Ms. Sinemus.

13          BUTCH LAMBERT: Any questions from the Board?

14               (No audible response.)

15          BUTCH LAMBERT: Anything further, Mr. Scott?

16          TIM SCOTT: That's all I have, Mr. Chairman.

17          BUTCH LAMBERT: Do I have a motion?

18          BRUCE PRATHER: Motion to approve.

19          BILL HARRIS: Second.

20          BUTCH LAMBERT: I have a motion and a second. Are  
21 there any further discussions?

22               (No audible response.)

23          BUTCH LAMBERT: All in favor, signify by saying yes.

24               (All members signify by saying yes.)

25

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: We're calling item number 22. A petition from Range Resources-Pine Mountain, Inc. for a well location exception for proposed well 900023, docket number VGOB-12-0313-3040. All parties wishing to testify, please come forward.

TIM SCOTT: Mr. Chairman, Tim Scott, Lida Sinemus and Phil Horn for Range Resources-Pine Mountain, Inc.

BUTCH LAMBERT: You may proceed, Mr. Scott.

TIM SCOTT: Thank you, Mr. Chairman.

PHIL HORN

having been duly sworn, was examined and testified as follows:

## DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Horn, your name, by whom you're employed  
and your job description, please.

A. My name is Phil Horn. I'm the land manager for Range Resources-Pine Mountain, Inc.

Q. And you're familiar with this application, is that correct?

A. Yes, I am.



1 Q. And you're also familiar with the ownership  
2 of the minerals underlying this unit?

3 A. Yes, I am.

4 Q. And those owners are set out on Exhibit B,  
5 is that correct?

6 A. That is correct.

7 Q. Who operates well V-530110?

8 A. EQT Production Company and Range Resources  
9 also owns an interest in that well.

10 Q. So, you're an owner and operator for this  
11 unit, is that correct?

12 A. That's correct.

13 Q. And we do have some unknowns for this  
14 particular unit, is that right?

15 A. Yes, we do.

16 Q. So, we not only sent out by certified mail,  
17 we also published, is that right?

18 A. Yeah, we published in the Dickenson Star on  
19 February the 22nd, 2012.

20 Q. And we've provided proof publication and  
21 proof of mailing to this Board, is that right?

22 A. Yes, you have.

23 TIM SCOTT: Okay. That's all I have for Mr. Horn.

24 BUTCH LAMBERT: Any questions from the Board?

25

1 (No audible response.)

2 BUTCH LAMBERT: You may continue, Mr. Scott.

3 TIM SCOTT: Thank you, Mr. Chairman.

4

5 LIDA SINEMUS

6 having been duly sworn, was examined and testified as  
7 follows:

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. SCOTT:

10 Q. Ms. Sinemus, your name, by whom you're  
11 employed and your job description, please.

12 A. Lida Sinemus, Range Resources-Pine  
13 Mountain, Inc. as a Senior Geologist.

14 Q. And you're familiar with this application,  
15 is that correct?

16 A. I am.

17 Q. And you've passed out an Exhibit AA, is that  
18 right?

19 A. I have.

20 Q. And would you please tell the Board with  
21 that exhibit why we are seeking a well location exception  
22 for this particular well?

23 A. Certainly. With this well it's almost  
24 helpful to look at the plat also. There is a trailer that

25

1 we had to move this location to the east to stay 200 feet  
2 away from an occupied dwelling as required by state law.  
3 So, with this one that scooted us over just enough. So, the  
4 proposed location maximizes the recovery of the natural gas  
5 resources in relationship to this current...to the current  
6 land use.

7 Q. What would be the loss...or the stranded  
8 acreage if this application were not approved today?

9 A. 110.92 acres.

10 Q. And what's the proposed depth of this well?

11 A. The proposed depth is 5,430 feet.

12 Q. And the potential loss of reserves?

13 A. 400 million cubic feet.

14 Q. And then if this application is granted, it  
15 would prevent waste, promote conservation and protect  
16 correlative rights, is that correct?

17 A. Yes.

18 TIM SCOTT: That's all I have for Ms. Sinemus.

19 BUTCH LAMBERT: Any questions from the Board?

20 (No audible response.)

21 BUTCH LAMBERT: Anything further, Mr. Scott?

22 TIM SCOTT: That's all I have, Mr. Chairman.

23 BUTCH LAMBERT: Do I have a motion?

24 BRUCE PRATHER: Motion to approve.

25

1                   BILL HARRIS: Second.

2                   BUTCH LAMBERT: I have a motion and I have a second.

3   Are there any further discussion?

4                   (No audible response.)

5                   BUTCH LAMBERT: All in favor, signify by saying yes.

6                   (All members signify by saying yes, but Donnie

7   Ratliff.)

8                   BUTCH LAMBERT: Opposed, no.

9                   DONNIE RATLIFF: I'll abstain, Mr. Chairman.

10                  BUTCH LAMBERT: One abstention Mr. Ratliff. We're

11   calling docket item 23, which is a petition from Range

12   Resources-Pine Mountain, Inc. for a well location exception

13   for     proposed     well     V-530332,     docket     number

14   VGOB-12-0313-3041. All parties wishing to testify, please

15   come forward.

16                  TIM SCOTT: Tim Scott, Lida Sinemus and Phil Horn

17   for Range Resources-Pine Mountain, Inc.

18                  BUTCH LAMBERT: You may proceed, Mr. Scott.

19                  TIM SCOTT: Thank you, Mr. Chairman.

20

21                                   PHIL HORN

22   having been duly sworn, was examined and testified as

23   follows:

24                                   DIRECT EXAMINATION

25

1 QUESTIONS BY MR. SCOTT:

2 Q. Mr. Horn, your name, by whom you're employed  
3 and your job description, please.

4 A. Phil Horn, land manger for Range  
5 Resources-Pine Mountain, Inc.

6 Q. And you're familiar with this application,  
7 is that right?

8 A. Yes, I am.

9 Q. And you're familiar with the ownership of  
10 the minerals underlying this unit, is that also correct?

11 A. That's correct. A 100% of the oil and gas.

12 Q. Okay. Who operates well number 537746?

13 A. EQT Production Company and Range also owns  
14 an interest in that well.

15 Q. So, you're both an owner and an operator on  
16 this one, is that right?

17 A. That's correct.

18 Q. And how were the parties listed on Exhibit  
19 B notified of this hearing today?

20 A. By certified mail.

21 Q. And we've provided proof of mailing to the  
22 Board, is that right?

23 A. Yes, you have.

24 TIM SCOTT: Okay. That's all I have for Mr. Horn.

25

1            BUTCH LAMBERT: Any questions from the Board?

2            (No audible response.)

3            BUTCH LAMBERT: You may continue, Mr. Scott.

4            TIM SCOTT: Thank you, Mr. Chairman.

5

6                            LIDA SINEMUS

7            having been duly sworn, was examined and testified as  
8            follows:

9                            DIRECT EXAMINATION

10           QUESTIONS BY MR. SCOTT:

11                          Q.        Ms. Sinemus, your name, by whom you're  
12           employed and your job description, please.

13                          A.        Lida Sinemus, Range Resources-Pine  
14           Mountain, Inc. as Senior Geologist.

15                          Q.        And you're familiar with this application,  
16           is that correct?

17                          A.        I am.

18                          Q.        And you've provided the Board with an  
19           Exhibit AA, is that also correct?

20                          A.        I did.

21                          Q.        And please tell the Board why we're seeking  
22           a well location exception for this particular well today?

23                          A.        The well has been positioned along an  
24           existing CBM road and site to minimize surface disturbance.

25

1 Any further beyond...if we move to the north and east we're  
2 running into some topographic constraints. This site  
3 results in the maximum recovery of natural gas resources  
4 with relationship to the existing offsetting well and it  
5 also minimizes the surface disturbance.

6 Q. Okay. What's the...what would be the  
7 number of stranded acres if this application were not  
8 approved today?

9 A. 111.96 acres.

10 Q. And what's the proposed depth of this well?

11 A. The depth is 6,152 feet.

12 Q. And the potential loss of reserves if the  
13 application were not granted today?

14 A. 425 million cubic feet.

15 Q. Now, Mr. Horn just testified that Range is  
16 the owner of the minerals under this tract, is that correct?

17 A. Yes.

18 Q. I believe that's what he said. So, we do  
19 not have a correlative rights issue. But if the application  
20 is granted it would prevent waste and promote conservation,  
21 is that correct?

22 A. Yes.

23 TIM SCOTT: Okay. That's all I have for Ms.  
24 Sinemus.

25

1           BUTCH LAMBERT: Any questions from the Board?  
2           BUTCH LAMBERT: Anything further, Mr. Scott?  
3           TIM SCOTT: That's all I have, Mr. Chairman.  
4           BUTCH LAMBERT: Do I have a motion to approve?  
5           TIM SCOTT: Motion to approve.  
6           BILL HARRIS: Second.  
7           BUTCH LAMBERT: I have a motion and a second. Any  
8 further discussion?  
9           (No audible response.)  
10          BUTCH LAMBERT: All in favor, signify by saying yes.  
11          (All members signify by saying yes, but Donnie  
12 Ratliff.)  
13          BUTCH LAMBERT: Opposed, no.  
14          DONNIE RATLIFF: I'll abstain, Mr. Chairman.  
15          BUTCH LAMBERT: One abstention Mr. Ratliff. We're  
16 calling docket item number 24. A petition from Range  
17 Resources-Pine Mountain, Inc. for a well location exception  
18 for proposed well 900035, docket number VGOB-12-0313-3042.  
19 All parties wishing to testify, please come forward.  
20          TIM SCOTT: Tim Scott, Lida Sinemus and Phil Horn  
21 for Range Resources-Pine Mountain, Inc.  
22          BUTCH LAMBERT: You may proceed, Mr. Scott.  
23          TIM SCOTT: Thank you, Mr. Chairman.

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PHIL HORN

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. One more time, Mr. Horn, your name, by whom you're employed and your job description, please.

A. My name is Phil Horn. I'm employed by Range Resources-Pine Mountain, Inc. as the land manager. One of my job descriptions is to get wells permitted and drilled.

Q. And you're familiar with this application, is that right?

A. Yes, I am.

Q. You're also familiar with the ownership of the minerals underlying this unit, is that correct?

A. That's correct.

Q. And those mineral owners are set out in Exhibit B?

A. That's correct.

Q. Who operates the wells from which the well location exception is sought today?

A. Range Resources-Pine Mountain, Inc.

Q. And in this particular case, Range is both an owner and an operator, is that right?

1 A. That's correct.

2 Q. Okay. And we do have some unknowns, do we  
3 not?

4 A. Yes, we do.

5 Q. So, how was notice of this hearing provided  
6 to the parties listed on Exhibit B?

7 A. By certified mail to the unknowns and then  
8 it was published in the Dickenson Star on February the 22nd,  
9 2012.

10 Q. And we've provided proof of mailing and  
11 publication to the Board, is that right?

12 A. Yes, you have.

13 PHIL HORN: Okay. That's all I have for Mr. Horn.

14 BUTCH LAMBERT: Any questions from the Board?

15 (No audible response.)

16 BUTCH LAMBERT: You may continue, Mr. Scott.

17 TIM SCOTT: Thank you, Mr. Chairman.

18

19 LIDA SINEMUS

20 having been duly sworn, was examined and testified as  
21 follows:

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. SCOTT:

24 Q. Ms. Sinemus, your name, by whom you're

25

1 employed and your job description, please?

2 A. My name is Lida Sinemus and I'm employed by  
3 Range Resources-Pine Mountain, Inc. and I'm a Senior  
4 Geologist with them.

5 Q. And you're familiar with this application,  
6 is that correct?

7 A. I am.

8 Q. And you just passed out an Exhibit AA to the  
9 Board, is that right?

10 A. I have.

11 Q. And would you please tell the Board why  
12 we're seeking a well location exception for this particular  
13 unit today?

14 A. Again, with this one with relationship to  
15 existing offsetting wells we have maximized the recovery of  
16 the remaining natural gas resources and as you can see on  
17 the exhibit there really isn't an available site that meets  
18 statewide spacing requirements.

19 Q. What would be the loss of...or the stranded  
20 acreage for this particular unit?

21 A. 107.40 acres.

22 Q. And what's the proposed depth of this well?

23 A. The proposed depth of this well is 5,430  
24 feet.

25

1 Q. And the potential loss of reserves if the  
2 application were not granted?

3 A. 500 million cubic feet.

4 Q. So, we have a number of folks in this  
5 particular unit. So, if the application is granted, it  
6 would prevent waste, protect correlative rights and promote  
7 conservation, is that correct?

8 A. Yes.

9 TIM SCOTT: Okay. That's all I have for Ms.  
10 Sinemus.

11 BUTCH LAMBERT: Questions from the Board?

12 (No audible response.)

13 BUTCH LAMBERT: Anything further, Mr. Scott?

14 TIM SCOTT: That's all I have, Mr. Chairman.

15 BUTCH LAMBERT: Do I have a motion?

16 BRUCE PRATHER: Motion to approve.

17 BILL HARRIS: Second.

18 BUTCH LAMBERT: I have a motion and a second. Any  
19 further discussion?

20 (No audible response.)

21 BUTCH LAMBERT: All in favor, signify by saying yes.

22 (All members signify by saying yes, but Donnie  
23 Ratliff.)

24 BUTCH LAMBERT: Opposed, no.

25

1 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

2            BUTCH LAMBERT: One abstention Mr. Ratliff. We're  
3 calling item number 2. A petition from Range  
4 Resources-Pine Mountain, Inc. for a well location exception  
5 for proposed well 900067, docket number VGOB-12-0313-3043.  
6 All parties wishing to testify, please come forward.

7                   TIM SCOTT: Tim Scott, Lida Sinemus and Phil Horn  
8   for Range Resources-Pine Mountain, Inc.

9 BUTCH LAMBERT: You may proceed, Mr. Scott.

10 TIM SCOTT: Thank you, Mr. Chairman.

11

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12
PHIL HORN

13 having been duly sworn, was examined and testified as  
14 follows:

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. SCOTT:

17 Q. Mr. Horn, your name, by whom you're employed  
18 and your job description.

19 A. My name is Phil Horn. I'm employed by Range  
20 Resources-Pine Mountain, Inc. as the land manager.

21 Q. And you're familiar with this application,  
22 is that correct?

23                   A.       Yes, sir, that's correct.

24 Q. And you are also familiar with the ownership

1 of the minerals underlying this unit, is that right?

2 A. That's right.

3 Q. And those owners are set out on Exhibit B?

4 A. That's correct.

5 Q. Who operates well number 821791?

6 A. Range Resources-Pine Mountain, Inc.

7 Q. Are you an owner and operator for this  
8 particular unit as well?

9 A. Yes, we are.

10 Q. Okay. How was notice of this hearing  
11 provided to the parties listed on Exhibit B?

12 A. By certified mail.

13 Q. And we provided proof of mailing to the  
14 Board, is that right?

15 A. Yes, you have.

16 TIM SCOTT: Okay. That's all I have for Mr. Horn.

17 BUTCH LAMBERT: Any questions from the Board?

18 (No audible response.)

19 BUTCH LAMBERT: You may continue, Mr. Scott.

20 TIM SCOTT: Thank you, Mr. Chairman.

21

22 LIDA SINEMUS

23 having been duly sworn, was examined and testified as  
24 follows:

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DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Ms. Sinemus, your name, by whom you're employed and your job description, please.

A. My name is Lida Sinemus. I'm employed by Range Resources-Pine Mountain, Inc. I'm a Senior Geologist with them.

Q. And you're familiar with this application, is that right?

A. I am.

Q. And you've just passed out an Exhibit A to the Board indicating that this...the location of this unit with regard to the units from which we're seeking a well location exception, is that right?

A. I have.

Q. And would you please tell the Board why we're seeking a location exception today?

A. Yes. With the relationship to the existing offsetting wells. Again, this site has been positioned to maximize the recovery of the remaining natural gas resources and there is no available location that meets statewide spacing requirements.

Q. And what...what would be the number of acres that would be stranded if this application were not granted

1 today?

2 A. 107.15 acres.

3 Q. And what's the proposed depth of this well?

4 A. 6,054 feet.

5 Q. And the potential loss of reserves?

6 A. 350 million cubic feet.

7 Q. So, in this particular case, if the  
8 application is granted, it would promote conservation,  
9 prevent waste and protect correlative rights, is that  
10 correct?

11 A. It is.

12 TIM SCOTT: Okay. That's all I have for Ms.  
13 Sinemus.

14 BUTCH LAMBERT: Any questions from the Board?

15 (No audible response.)

16 BUTCH LAMBERT: Anything further, Mr. Scott?

17 TIM SCOTT: That's all I have, Mr. Chairman..

18 BUTCH LAMBERT: Do I have a motion

19 BRUCE PRATHER: Motion to approve.

20 BILL HARRIS: Second.

21 BUTCH LAMBERT: I have a motion and second. Any  
22 further discussion?

23 (No audible response.)

24 BUTCH LAMBERT: All in favor, signify by saying yes.

25



1 (All members signify by saying yes, but Donnie  
2 Ratliff.)

3 BUTCH LAMBERT: Opposed, no.

4 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

5 BUTCH LAMBERT: One abstention Mr. Ratliff.

6 DONNIE RATLIFF: Phil, who is Big Sandy Fuel?

7 PHIL HORN: Big Sandy Fuel that's part of the  
8 Pittston acreage. That's just a tract name. (Inaudible)  
9 acre tract and that's what it's called up there.

10 DONNIE RATLIFF: Thank you.

11 BUTCH LAMBERT: We're calling docket item 26. A  
12 petition from Range Resources-Pine Mountain, Inc. for a well  
13 location exception for proposed well V-530334, docket  
14 number VGOB-12-0313-3044. All parties wishing to testify,  
15 please come forward.

16 TIM SCOTT: Tim Scott, Lida Sinemus and Phil Horn  
17 for Range Resources-Pine Mountain, Inc.

18 BUTCH LAMBERT: You may proceed, Mr. Scott.

19 TIM SCOTT: Thank you, Mr. Chairman.

20

21 PHIL HORN

22 having been duly sworn, was examined and testified as  
23 follows:

24 DIRECT EXAMINATION

25

1 QUESTIONS BY MR. SCOTT:

2 Q. Mr. Horn, please state your name, by whom  
3 you're employed and your job description.

4 A. My name is Phil Horn. I'm employed as the  
5 land manager for Range Resources-Pine Mountain, Inc.

6 Q. And you're familiar with this application,  
7 is that correct?

8 A. Yes, I am.

9 Q. Are you familiar with the ownership of the  
10 minerals underlying this unit?

11 A. Yes. We own a 100% of the oil and gas in  
12 this unit.

13 Q. And the other remaining owners are listed  
14 on Exhibit B, is that correct?

15 A. That's right. The Commonwealth. That's  
16 correct.

17 Q. And who operates the wells from which the  
18 well location exception is sought today?

19 A. Those are operated by EQT Production  
20 Company. They were originally drilled by Range Resources.  
21 We transferred the permits and we also have an interest in  
22 those wells.

23 Q. Okay. How was notice of this hearing  
24 provided to the parties listed on Exhibit B?

25

1           A.       By certified mail.

2           Q.       And the proof of mailing has been provided  
3 to Mr. Cooper, is that right?

4           A.       That's correct.

5           TIM SCOTT: Okay. That's all I have for Mr. Horn.

6           BUTCH LAMBERT: Any questions from the Board?

7           (No audible response.)

8           BUTCH LAMBERT: You may continue, Mr. Scott.

9           TIM SCOTT: Thank you, Mr. Chairman.

10                           LIDA SINEMUS

11 having been duly sworn, was examined and testified as  
12 follows:

13                           DIRECT EXAMINATION

14           QUESTIONS BY MR. SCOTT:

15           Q.       Ms. Sinemus, your name, by whom you're  
16 employed and your job description, please.

17           A.       My name is Lida Sinemus. I'm employed by  
18 Range Resources-Pine Mountain, Inc. I'm a Senior Geologist  
19 with them.

20           Q.       Are you familiar with this application?

21           A.       I am.

22           Q.       And you just passed out an Exhibit A to the  
23 Board, is that right?

24           A.       I did.

25

1 Q. And would you please tell the Board why  
2 we're seeking a well location exception for this particular  
3 unit today?

4 A. Yes. This well has been position due to  
5 topographic constraints along an existing mine bench.  
6 We'll also minimize the surface disturbance and result in  
7 the maximum recovery of the natural gas resources with  
8 relationship to the existing offsetting wells.

9 Q. What's...what would be the number of acres  
10 that would be stranded if this application were not granted  
11 today?

12 A. 95.68 acres.

13 Q. And what's the proposed depth of this well?

14 A. 6,791 feet.

15 Q. And the potential loss of reserves?

16 A. 400 million cubic feet.

17 Q. And if this application were approved, it  
18 would prevent waste and promote conservation, is that  
19 correct?

20 A. It is.

21 Q. Because we don't have any correlative  
22 rights issues with this particular unit, is that right?

23 A. It is.

24 TIM SCOTT: Okay. That's all I have for Ms.

25

1 Sinemus.

2 BUTCH LAMBERT: Any questions from the Board?

3 BILL HARRIS: We were actually looking at something  
4 else. But the reason we couldn't move it to the southeast  
5 was that---?

6 LIDA SINEMUS: We were trying to stay along the mine  
7 bench...the existing mine bench. So, if we...to move it to  
8 the...because of topographic restraints we'd have to follow  
9 along the mine bench. It would be about 2500 feet  
10 away...1800...sorry, 1800 feet to the southeast which would  
11 strand acreage in between.

12 BRUCE PRATHER: Could I make a comment?

13 LIDA SINEMUS: Certainly.

14 BRUCE PRATHER: On your horizontal well here, how  
15 are you going to make the thing go to a right angle and then  
16 come back and go northwest. I think it's a misprint on  
17 your---.

18 LIDA SINEMUS: That's an existing---.

19 BRUCE PRATHER: It's an existing horizontal well.  
20 But you've got the thing going up...the horizontal well  
21 comes out going northeast and then turns directly northwest.  
22 How are you going to do that?

23 LIDA SINEMUS: Well, I think it's the way that it's  
24 sort...it's a 3-D on a 2-D and it's sort of the way that it

25

1 curved around. It's just the way that it shows up on this  
2 scale.

3 PHIL HORN: It's already drilled. It's drilled.  
4 Yes, sir.

5 BRUCE PRATHER: Yeah, I know that. What I'm saying  
6 is what you're talking about, the horizontal well should  
7 be...I mean, I realize you have a certain amount when you  
8 get out to where you're in the unit. But it should be this  
9 way instead of going out and then back. You can't drill one  
10 of these horizontal well doing that.

11 LIDA SINEMUS: Again, I think it's more because it's  
12 2-D and 3-D and it's actually showing...it's more of  
13 a...it's a curve instead of...it's just the way that it shows  
14 up. But, yes, that would be hard to drill exactly like that.

15 BUTCH LAMBERT: Any other questions from the Board?  
16 (No audible response.)

17 BUTCH LAMBERT: Anything further, Mr. Scott?

18 TIM SCOTT: That's all I have, Mr. Chairman.

19 BUTCH LAMBERT: Do I have a motion?

20 BRUCE PRATHER: Motion to approve.

21 BILL HARRIS: Second.

22 BUTCH LAMBERT: I have a motion and a second. Any  
23 further discussion?

24 (No audible response.)

25

1        BUTCH LAMBERT: All in favor, signify by saying yes.

2 (All members signify by saying yes, but Donnie  
3 Ratliff.)

4 BUTCH LAMBERT: Opposed, no.

5 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

6                    BUTCH LAMBERT: One abstention Mr. Ratliff. We're  
7 calling docket item 27. A petition from Range  
8 Resources-Pine Mountain, Inc. for the establishment of a  
9 drilling unit and pooling of a conventional well 900023,  
10 docket number VGOB-12-0313-3045. All parties wishing to  
11 testify, please come forward.

12 TIM SCOTT: Tim Scott, Lida Sinemus and Phil Horn  
13 for Range Resources-Pine Mountain, Inc.

14 BUTCH LAMBERT: You may proceed, Mr. Scott.

15                   TIM SCOTT: Thank you, Mr. Chairman. These next  
16 two units are...the next two docket items are works in  
17 progress. We're moving and grooving as far as getting  
18 leases on this one.

19

20 PHIL HORN

21 having been duly sworn, was examined and testified as  
22 follows:

23 DIRECT EXAMINATION

24 QUESTIONS BY MR. SCOTT:

25





1 A. Yes, we have.

2 Q. And how much of the unit do you have...what  
3 percentage of the unit do you have under lease presently?

4 A. 75.92572222%.

5 Q. Okay. And how was notice of this hearing  
6 provided to the parties listed on Exhibit B?

7 A. By certified mail and also publication in  
8 the Dickenson Star on February the 22nd, 2012.

9 Q. Thank you. Do we have any unknowns in this  
10 unit?

11 A. Yes, we do.

12 Q. Have you provided Mr. Cooper with your  
13 statement of efforts to locate these parties?

14 A. Yes, I have.

15 Q. And, in your opinion, was due diligence  
16 exercised in an attempt to locate these parties?

17 A. Yes.

18 Q. Okay. Have you filed proofs of publication  
19 and mail certification with the Board?

20 A. Yes, you have.

21 Q. Okay. Now, Range is authorized to conduct  
22 business in the Commonwealth, is that right?

23 A. That's correct.

24 Q. And we have a blanket bond on file?

25

1 A. That's correct.

2 Q. And if you were able to reach an agreement  
3 with the unleased parties, what lease terms would you offer?

4 A. \$30 per acre for a five year paid up lease  
5 that provides for a one-eighth royalty.

6 Q. And that's reasonable compensation for a  
7 lease in this area?

8 A. In my opinion, yes.

9 Q. Okay. What percentage of the gas estate is  
10 Range seeking to pool here?

11 A. 24.07427778%.

12 Q. And we just...you just testified that we  
13 have some unknowns, is that right?

14 A. That's correct.

15 Q. So, we have an escrow requirement?

16 A. Tract 23 and 28.

17 Q. Okay. And what's the total percentage that  
18 would be in escrow?

19 A. 6.1753333%.

20 Q. And you're asking the Board to pool the  
21 unleased parties listed on Exhibit B-3, is that right?

22 A. That's correct.

23 Q. And also that Range be named operator for  
24 this unit, is that also correct?

25

1           A.       That's correct.

2           Q.       Now, when we send out our order, we'll send  
3 out that will provide for the elections. Can you tell the  
4 Board what address should be used for any party making an  
5 election?

6           A.       Range Resources-Pine Mountain, Inc.,  
7 P. O. Box 2136, Abingdon, Virginia 24212.

8           Q.       And is that the address for all  
9 correspondence?

10          A.       That's correct.

11          TIM SCOTT: Okay. That's all I have for Mr. Horn.

12          BUTCH LAMBERT: Any questions from the Board?

13          (No audible response.)

14          BUTCH LAMBERT: You may continue, Mr. Scott.

15          TIM SCOTT: Thank you, Mr. Chairman.

16

17                   LIDA SINEMUS

18 having been duly sworn, was examined and testified as  
19 follows:

20                   DIRECT EXAMINATION

21          QUESTIONS BY MR. SCOTT:

22           Q.       Ms. Sinemus, your name, by whom you're  
23 employed and your job description.

24           A.       My name is Lida Sinemus. I'm employed by  
25

1 Range Resources-Pine Mountain, Inc. I'm a Senior  
2 Geologist.

3 Q. And you're familiar with this application,  
4 is that right?

5 A. I am.

6 Q. What's the proposed depth of this well?

7 A. 6,530 feet.

8 Q. And what...what are the estimated reserves  
9 for this unit?

10 A. 400 million cubic feet.

11 Q. Okay. And you're also familiar with the  
12 well costs?

13 A. I am.

14 Q. What's the estimated dry hole cost?

15 A. The dry hole cost is \$326,379.

16 Q. And the estimated completed well cost?

17 A. \$636,378.

18 Q. And we've provided an AFE with our  
19 application, is that correct?

20 A. Yes, we have.

21 Q. And it does have a line item for  
22 supervision, is that correct?

23 A. It does.

24 Q. And you believe that charge to be  
25

1 reasonable?

2 A. Yes.

3 Q. In your opinion, if the application is  
4 granted, it would prevent waste, promote conservation and  
5 protect correlative rights, is that also correct?

6 A. Yes.

7 TIM SCOTT: That's all I have for Ms. Sinemus.

8 BUTCH LAMBERT: Questions from the Board?

9 (No audible response.)

10 BUTCH LAMBERT: You may continue, Mr. Scott.

11 TIM SCOTT: That's all I have, Mr. Chairman.

12 BUTCH LAMBERT: Do I have a motion?

13 BRUCE PRATHER: Motion to approve.

14 BILL HARRIS: Second.

15 BUTCH LAMBERT: I have a motion and second. Any  
16 further discussion?

17 (No audible response.)

18 BUTCH LAMBERT: All in favor, signify by saying yes.

19 (All members signify by saying yes, but Donnie  
20 Ratliff.)

21 BUTCH LAMBERT: Opposed, no.

22 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

23 BUTCH LAMBERT: One abstention Mr. Ratliff. We're  
24 calling docket 28. A petition from Range Resources-Pine

25

1 Mountain, Inc. for establishment of a drilling unit and  
2 pooling for conventional well 900035, docket number  
3 VGOB-12-0313-3046. All parties wishing to testify, please  
4 come forward.

5 TIM SCOTT: Again, Tim Scott, Lida Sinemus and Phil  
6 Horn for Range Resources-Pine Mountain, Inc.

7 BUTCH LAMBERT: You may proceed, Mr. Scott.

8 TIM SCOTT: Thank you, Mr. Chairman. Let me let Mr.  
9 Horn get comfortable first.

10 SHARON PIGEON: Not too comfortable.

11 TIM SCOTT: Yeah, not too comfortable.

12

13 PHIL HORN

14 having been duly sworn, was examined and testified as  
15 follows:

16 DIRECT EXAMINATION

17 QUESTIONS BY MR. SCOTT:

18 Q. Mr. Horn, your name, by whom you're employed  
19 and your job description, please.

20 A. My name is Phil Horn. I'm employed by Range  
21 Resources-Pine Mountain, Inc. as the land manager.

22 Q. You're familiar with this application, is  
23 that right?

24 A. Yes, I am.

25

1 Q. How many acres does this unit contain?  
2 A. 112.69.  
3 Q. And Range has drilling rights in this unit,  
4 is that right?  
5 A. That's correct.  
6 Q. Now, we've...you've had ongoing leasing  
7 activities, is that correct?  
8 A. That's correct.  
9 Q. So, we're going to dismiss some folks today  
10 from Exhibit B-3, is that correct?  
11 A. That's correct.  
12 Q. Could you please name those parties for us?  
13 A. Allen Marcum, Virginia Treadway, Betty and  
14 Stanley Morefield, Sherry Lynn Bass, Sue Blankenship,  
15 Carolyn Arrington Smith and Lou Walafriend.  
16 Q. Okay. As a result, of your leasing  
17 efforts, what percentage of the unit do you have under lease  
18 presently?  
19 A. 88.73658929%.  
20 Q. And you're leasing efforts are ongoing, is  
21 that correct?  
22 A. That's correct.  
23 Q. Okay. Now, how was notice of this hearing  
24 provided to the parties listed on Exhibit B?

1           A.       By certified mail and by publication in the  
2 Dickenson Star on February the 22nd, 2012.

3           Q.       Now, we have some unknowns, is that right?

4           A.       Yes, we do.

5           Q.       And have you provided, again, Mr. Cooper  
6 with your statement of efforts to locate these parties?

7           A.       Yes, I have.

8           Q.       Do you believe that you've exercised due  
9 diligence in doing so?

10          A.       Yes, I do.

11          Q.       Okay.     Now, we've provided proof of  
12 publication and proof mailing to the Board, is that correct?

13          A.       That's correct.

14          Q.       And, again, Range is authorized to conduct  
15 business in the Commonwealth of Virginia, is that correct?

16          A.       That's correct.

17          Q.       And Range has a blanket bond on file, is that  
18 right?

19          A.       That's correct.

20          Q.       What would be the lease terms that you would  
21 offer to any unleased parties?

22          A.       \$30 per acre for a five year paid up lease  
23 that provides a one-eighth royalty.

24          Q.       And you consider these to be  
25



1 reasonable...reasonable compensation?

2 A. Yes, in my opinion.

3 Q. Okay. What percentage of the oil and gas  
4 estate is Range seeking to pool today?

5 A. 11.26341071%.

6 Q. And we've already testified...you've  
7 already testified that we have some unknowns, is that right?

8 A. That's correct.

9 Q. So, there is an escrow requirement?

10 A. For Tracts 8 and 15.

11 Q. And what's the total percentage of the unit  
12 that's going to be subjected to escrow?

13 A. 3.27273667%.

14 Q. Okay. And you're requesting the Board to  
15 pool the unleased parties listed on Exhibit B-3, is that  
16 right?

17 A. That's correct.

18 Q. And that Range be named the operator of this  
19 unit?

20 A. That's right.

21 Q. And, again, we're going to send out an order  
22 if the Board grants our application today and it will set  
23 out the elections that can be made, is that right?

24 A. That's correct.

25 193

1 Q. Where should those elections be sent?

2 A. Range Resources-Pine Mountain, Inc.,  
3 P. O. Box 2136, Abingdon, Virginia 24212.

4 Q. And this will be the address for all  
5 communications?

6 A. Yes.

7 TIM SCOTT: Okay. That's all I have for Mr. Horn.

8 BUTCH LAMBERT: Any questions from the Board?

9 BRUCE PRATHER: Mr. Chairman.

10 BUTCH LAMBERT: Mr. Prather.

11 BRUCE PRATHER: I'm looking at Exhibit B here.  
12 Is...this is a conventional well, isn't it?

13 PHIL HORN: Yes, sir.

14 BRUCE PRATHER: I thought we were supposed to have  
15 25% of the property lease prior to us giving you a...all I  
16 see is all these unleased leases on here.

17 PHIL HORN: If you will look at Exhibit E---.

18 BRUCE PRATHER: What is your total percentage of  
19 leased properties?

20 PHIL HORN: 88.73658929%.

21 BRUCE PRATHER: I've got...I've got this thing that  
22 all of these unleased...it says that everyone of them is  
23 unleased.

24 PHIL HORN: Are you looking at Exhibit E or B-3?

25

1           BRUCE PRATHER: I'm looking at E. 28.  
2           PHIL HORN: Yeah, those are...we have dozens of  
3 heirs that own a very small interest.  
4           BRUCE PRATHER: Okay.  
5           PHIL HORN: Yes, sir. Tracts 8 and 15---.  
6           BRUCE PRATHER: I mean, there's pages of them.  
7           TIM SCOTT: Right. And they're pages of heirs too,  
8 Mr. Prather.  
9           PHIL HORN: Yeah, we know. We don't like it either.  
10          BRUCE PRATHER: Okay. I mean, I didn't add them up  
11 or anything. I just thought that's an awful lot of  
12 unleased. Okay.  
13          PHIL HORN: You can see the percentages are very  
14 minor.  
15          BRUCE PRATHER: Yeah. Okay.  
16          PHIL HORN: Yes, sir.  
17          BUTCH LAMBERT: Any other questions from the Board?  
18          BRUCE PRATHER: Thank you very much.  
19          PHIL HORN: You're very welcome.  
20          BUTCH LAMBERT: Any other questions?  
21          TIM SCOTT: Try mailing them.  
22          BUTCH LAMBERT: You may continue, Mr. Scott.  
23          TIM SCOTT: Thank you, Mr. Chairman.

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LIDA SINEMUS

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Ms. Sinemus, please state your name, by whom you're employed and your job description.

A. My name is Lida Sinemus. I'm employed by Range Resources-Pine Mountain, Inc. as a Senior Geologist.

Q. And you're familiar with this application, is that right?

A. I am.

Q. And what's the proposed depth of this well?

A. 5,430 feet.

Q. And you...what are the estimated reserves for this unit?

A. 500 million cubic feet.

Q. And, obviously, you've reviewed the AFE, is that right?

A. I have.

Q. And what...so, you'd be familiar with the well cost, is that correct?

A. Yes.

Q. What's the estimated dry hole cost for this

1 particular well?

2 A. The dry hole cost is \$332,532.

3 Q. And the estimated completed well cost?

4 A. \$595,732.

5 Q. And we've provided an AFE with our  
6 application, is that correct?

7 A. We did.

8 Q. And there is a line item for supervision,  
9 is that correct?

10 A. Yes.

11 Q. And you believe to be a reasonable charge?

12 A. I do.

13 Q. Okay. In your opinion, if the application  
14 is granted it would be...it would promote conservation,  
15 prevent waste and protect the correlative rights, is that  
16 correct?

17 A. It is.

18 TIM SCOTT: Okay. That's all I have for Ms.  
19 Sinemus.

20 BUTCH LAMBERT: Any questions from the Board?

21 (No audible response.)

22 BUTCH LAMBERT: Anything further, Mr. Scott?

23 TIM SCOTT: That's all I have, Mr. Chairman.

24 BRUCE PRATHER: Motion to approve.

25

1           BILL HARRIS: Second.

2           BUTCH LAMBERT: I have a motion and a second. Any  
3 further discussion?

4           (No audible response.)

5           BUTCH LAMBERT: All in favor, signify by saying yes.

6           (All members signify by saying yes, but Donnie  
7 Ratliff.)

8           BUTCH LAMBERT: Opposed, no.

9           DONNIE RATLIFF: I'll abstain, Mr. Chairman.

10          BUTCH LAMBERT: One abstention Mr. Ratliff. Thank  
11 you, folks.

12          PHIL HORN: Thank you.

13          TIM SCOTT: Thank you.

14          BUTCH LAMBERT: The next item on the docket is the  
15 Board will receive an update of the Board and Division  
16 activities from the staff.

17          RICK COOPER: In regards to our sub-audit, we have  
18 finished the majority of the data. We are now in the  
19 analyzing phase and we're just starting with EQT. We had  
20 a conference call this past week with different people  
21 within EQT. So, if we run upon different situations or need  
22 to ask questions we've got different people in different  
23 departments to help us try to answer some questions on some  
24 of that...some of the potential misdistribution of funds

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1 that we may not know where they're at whether it would be  
2 cancelled checks or, you know, the dollar balance or  
3 whatever it may be. So, we did do a conference call with  
4 them. We...I have a better feel, you know, where we're at  
5 in about two months. I think it's going to take about two  
6 months to go through that data and try to edit that data and  
7 see if we can find out where the funds are going or where  
8 they need to be. But we would be better able to answer that  
9 question at least no earlier than next month. Have you got  
10 anything, Diane?

11 DIANE DAVIS: I was just going to say, we're  
12 thinking that a lot of the differences will be found in the  
13 fact that checks were returned prior to the establishment  
14 of the account. We will be providing a list of those  
15 checks...check numbers, check amounts and dates to the  
16 operator for them to see if they can determine the status  
17 and if they have not been cashed we're going to  
18 assume...we'll ask the Board or someone to have them correct  
19 that matter because most of them like at the very beginning  
20 of the docket where the...you know, back in the olden days  
21 we established the account with a supplemental order instead  
22 of the order and they start maybe doing funds before the  
23 order got entered.

24 RICK COOPER: So, what we're trying to do is we have

25

1 these identified accounts that may be off a little more than  
2 normal. So, we're putting detailed comments out from that  
3 so if anybody needs to know what we think or where we think  
4 the money has went we'll be able to determine that. Some  
5 of that may be able to be corrected by the Board. We're not  
6 exactly sure how all of it will be corrected. We'll address  
7 that in the future.

8 BILL HARRIS: Well, if some of these funds were  
9 returned by the bank because the account wasn't set up...of  
10 course, I can't speak to the accounting of the companies,  
11 but I would think that that will be earmarked some type of  
12 way and they would (inaudible). But that would be noticed  
13 somewhere that, you know, here is a \$3,000 check that was  
14 returned. Did that get absorbed into the system or I mean  
15 what happened---?

16 RICK COOPER: Well, you know, we've tracked...you  
17 would think it would be that simple, but we have found out  
18 that it's not. We thought the same thing, you know, if we  
19 had the check number and they could identify where it went.  
20 They're having a little trouble with that. That's the  
21 reason we had the conference call with all the departments  
22 to try to come up with that. Just for example, EQT said that  
23 they write 6,000 checks per month. But, you know, it's  
24 irrelevant whether they write 6,000 or 10,000. Really it's

25



1 an accounting methods. So, that's---.

2 BILL HARRIS: Yeah.

3 RICK COOPER: ---what we're trying to trace down.

4 DIANE DAVIS: And if you will remember a few months  
5 ago they talked about the ones that EQT had escheated to the  
6 State already and we're wondering if that's not what has  
7 happened on some of these. So, that's...that's going to be  
8 the harder thing to find out. That's what a lot of it is  
9 looking like. It's looking more like checks were written  
10 that maybe were returned because of whatever reason, the  
11 wrong number or wrong something. So far that's where the  
12 majority is coming in. We are finding a lot of errors where  
13 we're being able to see that appear that they wrote the check  
14 but maybe it took several months to actually get posted into  
15 the bank account. So, a lot of it we're being able to  
16 identify without even having to go to the operator. I don't  
17 know if that helps, but that's what we're seeing so far.

18 BRUCE PRATHER: Do you envision these problem with  
19 the rest of the operators?

20 RICK COOPER: Well, we have all...we have went  
21 through everything. So, we have identified all of the  
22 operators and the accounts that we need to look at. We just  
23 started with EQT because we thought it would probably be  
24 simplest.

25

1           BRUCE PRATHER: Oh, Okay.

2           DIANE DAVIS: I'm not sure about it.

3           BRUCE PRATHER: But you don't envision as much as  
4 you're going to have with them?

5           RICK COOPER: Well, EQ...again, just like the gas  
6 operations EQT and CNX are about 75% of all of the accounts  
7 and all of the problems. So...and CNX will be about 60% of  
8 these. So, we've identified several 100 accounts that  
9 we're going through.

10          BUTCH LAMBERT: Anything else?

11                   (No audible response.)

12          BUTCH LAMBERT: In the interest reducing paper and  
13 reducing costs, I just wanted to update the Board that I have  
14 our IT staff working on making dockets that you receive and  
15 making them electronic and at some point in time if we can  
16 work through the process we may even be giving each of you  
17 iPads or small computers to receive Board information on.

18          BILL HARRIS: I made that recommendation I bet 10  
19 years ago. It may not have been that long, but years ago.

20          BUTCH LAMBERT: Well, I've got our IT staff working  
21 on it.

22          BILL HARRIS: (Inaudible).

23          RICK COOPER: I sort of forgot, we...Diane and  
24 myself we did meet with the IT staff a week before last in

25

1 regards to that. So, do have a goal and a mission in mind.  
2 We hope, this is our hope and our goal and Butch's, by  
3 September all applications, supplements and orders will  
4 come in electronically. That's our goal no later than  
5 September to have that in place. I think it's a doable goal.

6 BUTCH LAMBERT: We'll continue to update the Board  
7 on that activity as we get a little further into that.  
8 Anything further from the staff, Rick?

9 RICK COOPER: No.

10 BUTCH LAMBERT: Okay. The last item on the docket  
11 is the review and approval of the minutes for the February  
12 meeting. Are there any additions or corrections that need  
13 to be made to those minutes?

14 DONNIE RATLIFF: I move to approve as presented, Mr.  
15 Chairman.

16 BUTCH LAMBERT: Do I have a second?

17 BRUCE PRATHER: Second.

18 BUTCH LAMBERT: All in favor, signify by saying yes.

19 (All members signify by saying yes.)

20 BUTCH LAMBERT: Opposed, no.

21 (No audible response.)

22 BUTCH LAMBERT: Thank you, ladies and gentlemen.

23 We are adjourned and we'll see you all next month.

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STATE OF VIRGINIA,  
COUNTY OF BUCHANAN, to-wit:

I, Sonya Michelle Brown, Court Reporter and Notary  
Public for the State of Virginia, do hereby certify that the  
foregoing hearing was recorded by Diane Davis on a tape  
recording machine and later transcribed by me personally.

Given under my hand and seal on this the 16th day  
of April, 2012.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: August 31, 2013.  
My Notary Registration No.: 186661